

# NEWS LETTER

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Covering Updates for the Month of April'26  
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# DIRECT TAX UPDATE



## Tribunal Decisions

### i. Section 37 - Provision for unfunded employee benefit scheme is Allowable Business Expenditure as it is an ascertained liability

**Tata Motors Body Solutions Ltd v. DCIT 185 taxmann.com 788 (Mum - Trib.)**

#### Facts of the Case:

The assessee-company was operating an unfunded defined benefit plan for the eligible employees of the assessee-company under the name Bhavishya Kalyan Yojana (BKY). The assessee created provision for the aforesaid schemes on the basis of report of an independent actuary and claimed deduction in respect of provision made for BKY.

The Assessing Officer rejected the claim of the assessee on ground that the liability under the BKY was contingent upon the occurrence of a future event and not yet crystallized and thus, he allowed only actual payment and disallowed balance under section 37(1).

#### Decision :

The Mumbai Tribunal allowed the claim following the decision of the co-ordinate bench in the case of group concern of the assessee (Dy. CIT v. Tata Motors Finance Ltd. (IT Appeal No. 4353 (Mum.) of 2013).

The Tribunal observed that the Assessing Officer had allowed deduction for actual expenses paid by the Assessee during the relevant previous year under BKY and had disallowed deduction claimed by the assessee in respect of Provision for BKY expenses observing that the provision was created on an ad-hoc basis for a liability which had not crystallized during the relevant previous year. The Assessee had submitted the actuarial valuation report before the Learned CIT(A). The Tribunal finds that the actuarial valuation was done after taking into account the number of employees/beneficiaries, benefit patterns, salary increase and actuarial discounting factor. Therefore, the contention of the Revenue that the amount debited by the Assessee was an ad-hoc amount is rejected. An employee becomes eligible to be covered under the employee benefit schemes (such as BKY) on account of employment contract and the applicable employee benefits schemes. The Actuarial valuation is done on the basis of the contractual obligation of the Assessee. The amount so determined constitutes ascertained liability computed based on the scientific method. The liability to make payment to employees in terms of BKY is a 'liability in praesenti though it will be discharged at a future date.'

**ii. Section 54F will prevail over section 70(3)**

**Nikesh Bhagwandas Mehta v. ITO 185 taxmann.com 711 (Mum- Trib.)**

**Facts of the Case:**

The assessee earned long-term capital gain (LTCG) of about Rs. 69.84 lakhs from sale of equity shares and claimed exemption under section 54F. He also incurred long-term capital loss (LTCL) of about Rs. 37.72 lakhs on sale of other equity shares and carried it forward in the return.

The CPC processed the return under section 143(1) and did not allow the carry forward of the LTCL to subsequent years.

**Decision:**

Tribunal held that the chargeability of profit or gain arising from the transfer of capital asset u/s 45(1) of the Income-tax Act, 1961, is subject to what is provided in section 54 to 54H, which includes section 54F. Thus, the chargeability itself factors in the benefit available to the assessee u/s. 54F (section relevant to the present case). Heading of the section 54F mentions that capital gain on transfer of certain capital assets is not to be charged in case of investment in residential house. Thus, when the conditions as prescribed u/s. 54F are complied with by the assessee, the capital gain arising out of the transfer of certain capital assets gets an exit from the charging section 45. Clause (a) of section 54F(1) prescribes that the whole of capital gain shall not be charged u/s.45 when the cost of new asset is more than the net consideration in respect of the original asset which was transferred, giving rise to capital gain. Thus, the scheme of section 45 to 55A provide for computation of capital gains and the effect has to be given first as per series of exemption section of 54.

Section 70(3) mentions that where there is a loss as a result of computation made u/s. 48 to 55, assessee is entitled to set off such a loss against income, if any arrived at under similar computation for any other capital asset not being short term capital asset. Thus, section 70(3) will apply once capital gain has been computed as per the provisions of section 48 to 55 wherein exemption available under section 54F is subsumed for the purpose of computation. Accordingly, provisions of section 54F will prevail over the provisions of section 70(3).

The Tribunal held that the assessee is eligible for exemption u/s.54F towards LTCG of Rs. 69.84 lakh earned on sale of certain long term equity shares. At the same time, assessee is also eligible to carry forward LTCL of Rs. 37.73 lakh incurred by him on sale of another set of long term equity shares. It is not necessary that one should first apply section 70(3) and thereafter only the assessee could invest the capital gain/net consideration arising from the transaction of long term capital asset as required u/s. 54F. Scheme of section 45 to 55A provides for computation of capital gains and the effect has to be given first to the provision of capital gains as provided under the said sections and then apply the provisions of section 70. To put it in other words, section 70 would come into the computation of total income only when the capital gains has been computed in accordance with the provisions of section 45 to 55A.

**iii. Capital Gain on Redevelopment - Accrues in the year of possession of Alternate Permanent Accommodation**  
**Jigar Sevantil Shah v. ITO [2026] 185 taxmann.com 818 (Mum- Trib)**

**Facts of the Case:**

The assessee, had acquired tenancy rights in respect of a flat in 2015. In December 2017, the landlord entered into a redevelopment arrangement with a developer, and the assessee, as confirming party, executed a tripartite agreement to receive specified permanent alternate accommodation in lieu of surrender of tenancy rights. Under the terms of this agreement, till the time the tenant was offered possession of the new premises with amenities, he was to continue as tenant and was not deemed to have surrendered the tenancy. Possession of the alternate permanent accommodation was handed over in April 2019.

During assessment, the AO examined the tripartite agreement and noted that, for stamp duty purposes, the Stamp Valuation Authority had determined the value at about Rs. 1.49 crores. The AO called upon the assessee to explain why this value should not be taxed as Short Term Capital Gain by invoking section 56(2) read with section 50D. The assessee responded that the tenancy was acquired in 2015 and, as per the agreement, surrender would occur only upon taking possession of the alternate accommodation in April 2019; therefore, any capital gain would be long-term and assessable in AY 2020-21. The AO rejected the explanation and computed STCG at about Rs. 1.10 crores after allowing cost of acquisition and the stamp duty paid for acquiring the tenancy rights.

#### **Decision:**

The Tribunal held that as per the terms of the said agreement, the assessee was supposed to handover the vacant possession of the tenancy premises to the developer to facilitate demolition of the existing building for redevelopment purposes. At this stage, it is necessary to look into certain important clauses of the tripartite agreement.

Reading of Clauses of the Agreement, makes it amply clear that the tenancy rights of the assessee in the existing (old premises) would come to end only upon receiving possession over pre-identified alternative permanent accommodation in the new building was handed over to the assessee in April, 2019. Therefore, the taxable event of capital gain qua the surrender of the tenancy rights if at all, can only happen in Financial Year (FY) 2019-20 and not in the impugned assessment year. When the tripartite agreement between the assessee, the developer and the landlord, in specific terms provide that the tenancy rights will continue to remain with the assessee till the handing over of possession of alternative permanent accommodation in the newly developed building, the Departmental Authorities cannot interpret the terms of the agreement in a different manner. Thus, in the Tribunal's considered opinion, there being no transfer/surrender of tenancy rights in the year under consideration, the AO cannot tax the capital gain on alleged surrender of tenancy rights in the impugned assessment year, as the capital gain, if any, has to be assessed in the year of surrender tenancy rights in AY 2020-21.

#### **iv. Sec 54F - Open land with no construction, could not be treated as residential DCIT v. Vijay Hathising Shah [2026] 185 taxmann.com 866 (Ahmedabad - Trib.)**

##### **Facts of the Case:**

The assessee, along with other co-owners, sold two non-agricultural lands at Ambli village and claimed deduction under section 54F of about Rs. 3.97crores on purchase of a new residential house. The assessee also held two properties described as (i) Ambli Gam Tal House with a book value of about Rs. 15.73 lakhs and (ii) a residential bungalow with a book value of about Rs. 1.03 crores.

The assessment was revised u/s 263 on the ground that the assessee owned more than one residential house and, therefore, was not eligible for section 54F. The AO recorded that the Ambli property was included in the balance sheet ; the photographs produced did not establish their timing; and it was unlikely the property was uninhabitable. On this basis, the AO treated the assessee as owner of two residential properties at the time of transfer and held him ineligible for section 54F.

##### **Decision:**

The Tribunal allowed deduction claimed u/s 54F on the ground that the registered Purchase Deed dated 29-05-2014 clearly states that there is no residential building on the premises. The assessee purchased the said property in 2014 which sold on 05-03-2020. The purchaser of the above property also confirmed by way of a notarized affidavit that the aforesaid property is open land of inhabitation and at present there does not exist any construction as on 05-03-2020. Even this registered Sale Deed dated 05-03-2020 described the property as open land of inhabitation admeasuring at Ambli. Thus it is clear the above property is not a residential property. Therefore, the question of denying benefit of deduction Section 54F does not arise.

# ACCOUNTING UPDATE



## EAC Opinion:

### 1. EPR Obligations for End-of-Life Vehicles (ELV) under Ind AS 37

- Context: OEMs must meet Extended Producer Responsibility (EPR) targets for scrapping vehicles sold in the past 15/20 years, as per ELV Rules effective April 1, 2025.
- Key Points:
  - The sale/introduction of vehicles in the market is the obligating event.
  - A present legal obligation exists once the ELV Rules are enacted, requiring OEMs to purchase EPR certificates.
  - Even if the company ceases operations, the obligation continues for vehicles already sold.
  - A provision for the best estimate of EPR costs must be recognized in the profit and loss statement in the year the law becomes effective (not adjusted to retained earnings).
  - Uncertainties in measurement (e.g., pending EC Cess Rules) do not preclude recognition; best estimates are required.

**Example:** If an OEM sold vehicles in 2006, it must recognize a provision for EPR costs in FY 2025-26 for those vehicles, based on best available estimates.

### 2. Change in Measurement Technique for Expected Credit Loss (ECL) under Ind AS 109

- Context: A company shifts from an internal grid matrix to an actuarial valuation for ECL on trade receivables.
- Key Points:
  - Changing the measurement technique (e.g., from grid matrix to actuarial) is a change in accounting estimate, not a change in accounting policy.
  - Such changes are accounted for prospectively, unless correcting a prior period error.
  - If the previous method was non-compliant with Ind AS 109, the change is treated as correction of an error and applied retrospectively.

**Example:** Moving to actuarial valuation for ECL in 2026 affects only future periods unless the old method was incorrect.

### 3. Employees' Family Benefit Scheme (EFBS) Classification under Ind AS 19

- Context: EFBS provides benefits to employees/families in case of death or disability during service.
- Key Points:
  - EFBS is not a defined benefit plan but qualifies as "other long-term employee benefits."
  - Benefits are recognized when the event (death/disability) occurs, not on employment termination.
  - The benefit amount does not depend on length of service.

**Example:** If an employee dies in service, the cost of EFBS is recognized at that time.

#### 4. Accounting for Construction Costs of Residential Quarters on Railway Land

- Context: A PSU constructs residential quarters on Railway land, with 50% leased to the PSU and 50% to Railways.
- Key Points:
  - The arrangement is a lease under Ind AS 116; the right to use the flats is recognized as a right-of-use (RoU) asset.
  - Construction costs for flats used by the PSU are treated as payments for the RoU asset, not as PPE.
  - For flats constructed as a service to Railways, revenue is recognized under Ind AS 115, and the RoU asset is recognized when the flats are available for use.
  - The RoU asset is depreciated over the lease term (30 years).

**Example:** If the PSU constructs 20 flats for its own use, the cost is capitalized as a RoU asset and amortized over 30 years.

**Note:** These opinions are based on specific facts and prevailing laws as of April 2026. For detailed guidance, refer to the full EAC opinions or consult a professional advisor.

EAC Opinions can be accessed at:

<https://resource.cdn.icai.org/92002cajournal-may2026-33.pdf>

# COMPANY LAW UPDATE



## A. Introduction of Companies (Registration Offices and Fees) Amendment Rules, 2026:

The Ministry of Corporate Affairs (MCA) has, vide notification G.S.R. 300(E) dated April 21, 2026, amended the Companies (Registration Offices and fees) Amendment Rules, 2026.

Under this amendment, the MCA has introduced a fee for DIR 3 KYC (Web). Further, a DIN holder may change their personal details after completion of the KYC process on payment of a fee of ₹500.

The notification can be accessed at:

<https://www.mca.gov.in/bin/dms/getdocument?mds=cHzM3fSmBxK31349Sdz2yg%253D%253D&type=open>

## B. FAQs on the Companies Compliance Facilitation Scheme, 2026:

The Ministry of Corporate Affairs (MCA) has issued FAQs relating to the Companies Compliance Facilitation Scheme, 2026. The Scheme has been introduced for a limited period and shall remain open until 15th July, 2026.

[https://www.mca.gov.in/bin/dms/  
getdocument?mds=22HU6edu63wcOynHQHHGsQ%253D%253D&type=open](https://www.mca.gov.in/bin/dms/getdocument?mds=22HU6edu63wcOynHQHHGsQ%253D%253D&type=open)

# IFSCA UPDATE



## **A. Framework for preferential issues and qualified institutions placement under the International Financial Services Centres Authority (Listing) Regulations, 2024:**

The International Financial Services Centres Authority (IFSCA), vide Circular No. IFSCA PLNP/16/2024 Capital Markets dated April 22, 2026, has issued a framework for raising capital via preferential issues and qualified institutions placement (QIP) by IFSC listed entities. The provisions shall not apply to issuers having a secondary listing on such recognized stock exchange(s).

The Circular can be accessed at:

[https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a8de0b46&fileName=Framework\\_for\\_preferential\\_issues\\_and\\_QIP\\_under\\_the\\_IFSCA\\_Listing\\_Regulations\\_2024\\_20260422\\_0607.pdf&TitleName=Legal](https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a8de0b46&fileName=Framework_for_preferential_issues_and_QIP_under_the_IFSCA_Listing_Regulations_2024_20260422_0607.pdf&TitleName=Legal)

## **B. Framework for rights issue under the International Financial Services Centres Authority (Listing) Regulations, 2024.**

The International Financial Services Centres Authority (IFSCA), vide Circular No. IFSCA PLNP/16/2024 Capital Markets dated April 22, 2026, has issued framework for raising capital via right issue by IFSC listed entities. The provisions shall not apply to issuers having a secondary listing on such recognized stock exchange(s).

The circular can be accessed at:

[https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a8ddff35&fileName=Framework\\_for\\_rights\\_issue\\_under\\_the\\_IFSCA\\_Listing\\_Regulations\\_2024\\_20260422\\_0605.pdf&TitleName=Legal](https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a8ddff35&fileName=Framework_for_rights_issue_under_the_IFSCA_Listing_Regulations_2024_20260422_0605.pdf&TitleName=Legal)

## **C. Guidelines on Cyber Security and Cyber Resilience for Market Infrastructure Institutions (MIIs) in IFSC**

The International Financial Services Centres Authority (IFSCA) issued circular No. IFSCA-CSD/MS/2/2026-DCS dated April 20, 2026. As per the circular, IFSCA has prescribing a minimum baseline framework for cyber security applicable to all Regulated Entities (REs) operating within GIFT IFSC.

The circular can be accessed at:

[https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a8d614a8&fileName=Circular\\_Guidelines\\_CSCR\\_MIIs\\_20042026\\_20260420\\_0617.pdf&TitleName=Legal](https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a8d614a8&fileName=Circular_Guidelines_CSCR_MIIs_20042026_20260420_0617.pdf&TitleName=Legal)

#### **D. Prior requirements for Payment Service Providers entering into Rupee Drawing Arrangement (RDA)**

The International Financial Services Centres Authority (IFSCA) issued circular No. IFSCA-FMPP0BR/3/2023-Banking 2026-27/01 dated April 10, 2026. As per the circular, requires Payment Service Providers to obtain prior approval of the Authority to participate in Rupee Drawing Arrangement (RDA) scheme, as a non-resident Exchange House, in accordance with the Master Direction titled “Opening and Maintenance of Rupee/Foreign Currency Vostro Accounts of Non-resident Exchange Houses” dated January 1, 2016, issued by the Reserve Bank of India.

The circular can be accessed at:

[https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a8bb6026&fileName=Requirements\\_for\\_Payment\\_Service\\_Providers\\_entering\\_into\\_RDA\\_20260410\\_0757.pdf&TitleName=Legal](https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a8bb6026&fileName=Requirements_for_Payment_Service_Providers_entering_into_RDA_20260410_0757.pdf&TitleName=Legal)

#### **E. Issue new Reporting norms for Capital Market Intermediaries in IFSC**

The International Financial Services Centres Authority (IFSCA) issued revised circular No. F.No.1/IFSCA/CMI Supervision/2023-24 dated April 08, 2026. The Circular prescribes updated quarterly reporting norms and formats for all Capital Market Intermediaries (CMIs) in IFSC pursuant to the 2025 CMI Regulations.

The circular can be accessed at:

[https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a8b10bd3&fileName=Circular\\_CMI\\_reporting\\_final\\_pdf\\_20260409\\_1010.pdf&TitleName=Legal](https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a8b10bd3&fileName=Circular_CMI_reporting_final_pdf_20260409_1010.pdf&TitleName=Legal)

#### **F. Specification of Certification Course for Key Managerial Personnels (KMPs)/Employees under the International Financial Services Centres Authority (Fund Management) Regulations, 2025.**

The International Financial Services Centres Authority (IFSCA), vide Circular F. No. IFSCA PLNP/80/2024 Capital Markets dated April 02, 2026, has specified mandatory certification course for key personnel and core-business employees of all Capital Market Intermediaries (CMIs) in IFSC to be completed on or before September 30, 2026.

The circular can be accessed at:

[https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a89be802&fileName=Specification\\_of\\_Certification\\_Course\\_for\\_KMPs\\_and\\_other\\_employees\\_of\\_Capital\\_Market\\_Intermediaries\\_under\\_the\\_IFSCA\\_Capital\\_Market\\_Intermediaries\\_Regulations\\_2025\\_20260402\\_0517.pdf&TitleName=Legal](https://ifsc.gov.in/CommonDirect/GetFileView?id=d575554ec59b09e7fde503d3a89be802&fileName=Specification_of_Certification_Course_for_KMPs_and_other_employees_of_Capital_Market_Intermediaries_under_the_IFSCA_Capital_Market_Intermediaries_Regulations_2025_20260402_0517.pdf&TitleName=Legal)

# SEBI UPDATE



## A. Relaxation on non-compliance with the Minimum Public Shareholding (MPS) requirements

The Securities and Exchange Board of India (SEBI) issued Circular No. HO/49/14/14(13)2026-CFD-POD2//8772/2026 dated April 07, 2026 relating to extension of due date for compliance with the MPS under SEBI (Listing Obligations and Disclosure Requirement) Regulations 2015.

The Circular can be accessed at:

<https://www.sebi.gov.in/legal/circulars/apr-2026/relaxation-from-the-applicability-of-sebi-master-circular-for-compliance-with-the-provisions-of-the-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-on-non-compliance-with-the-100787.html>

## B. Mechanism for lock-in of pledged shares under SEBI (ICDR) Regulations, 2018:

SEBI has issued Circular No. HO/49/(17)2026 CFD POD2//8965/2026 dated April 08, 2026. As per the circular, where a lock in cannot be created on pledged specified securities, such securities shall be marked as “non transferable” by the Depositories for the applicable lock in period.

The Circular can be accessed at:

[https://www.sebi.gov.in/legal/circulars/apr-2026/ease-of-doing-business-mechanism-for-lock-in-of-pledged-shares-under-sebi-issue-of-capital-and-disclosure-requirements-regulations-2018\\_100826.html](https://www.sebi.gov.in/legal/circulars/apr-2026/ease-of-doing-business-mechanism-for-lock-in-of-pledged-shares-under-sebi-issue-of-capital-and-disclosure-requirements-regulations-2018_100826.html)

## C. Introduction of Framework for net settlement of funds for transactions done by Foreign Portfolio Investors (FPIs) in cash market

The Securities and Exchange Board of India (SEBI) issued circular No. HO/(1)2026-AFD-POD2//10157/2026 dated April 24, 2026, SEBI has permitted net settlement of funds for outright cash market transactions undertaken by Foreign Portfolio Investors (FPIs), with the objective of improving operational efficiency and reducing funding costs.

The Circular can be accessed at:

[https://www.sebi.gov.in/legal/circulars/apr-2026/framework-for-net-settlement-of-funds-for-transactions-done-by-foreign-portfolio-investors-fpis-in-cash-market\\_101090.html](https://www.sebi.gov.in/legal/circulars/apr-2026/framework-for-net-settlement-of-funds-for-transactions-done-by-foreign-portfolio-investors-fpis-in-cash-market_101090.html)

#### **D. Fast-Track Mechanism for Processing of Private Placement Memorandum (PPMs) of AIFs filed with SEBI**

The Securities and Exchange Board of India (SEBI) issued circular No. HO/19/19/11(2)2026-AFD-RAC2 I/10624/2026 dated April 30, 2026, has introduced a fast track mechanism for the launch of schemes/funds in respect of PPMs filed by Angel Funds and AIF schemes, other than 'Large Value Funds for Accredited Investors'.

The Circular can be accessed at:

[https://www.sebi.gov.in/legal/circulars/apr-2026/fast-track-mechanism-for-processing-of-placement-memorandum-of-aifs-filed-with-sebi\\_101213.html](https://www.sebi.gov.in/legal/circulars/apr-2026/fast-track-mechanism-for-processing-of-placement-memorandum-of-aifs-filed-with-sebi_101213.html)

#### **E. Operationalisation of Past Risk and Return Verification Agency**

The Securities and Exchange Board of India (SEBI), vide Circular No. HO/38/14/(4)2026 MIRSD POD/I/10557/2026 dated April 29, 2026, has granted recognition to Care Ratings Limited (CRL) as a Past Risk and Return Verification Agency.

(PaRRVA) with National Stock Exchange of India Limited (NSE) designated to act as the PaRRVA Data Centre.

The Circular can be accessed at:

[https://www.sebi.gov.in/legal/circulars/apr-2026/operationalisation-of-past-risk-and-return-verification-agency-parrva-\\_101185.html](https://www.sebi.gov.in/legal/circulars/apr-2026/operationalisation-of-past-risk-and-return-verification-agency-parrva-_101185.html)

# FEMA UPDATE



## A. Case Law

### I. Import on Credit Beyond Permitted Period Held to be Capital Account Transaction under FEMA

#### 1. Summary

- The SAFEMA Appellate Tribunal has held that import of goods on extended supplier credit beyond six months, without RBI approval, constitutes a capital account transaction under FEMA
- The Tribunal clarified that formal documentation of a loan is not a pre-condition for establishing borrowing in foreign exchange where credit terms are evident from transactions.
- While the contravention was upheld, penalties were significantly reduced, recognizing the breach as technical in nature.

#### 2. Background

- The taxpayer imported diamonds on a credit basis.
- Remittances to the overseas supplier were made more than six months after the date of import.
- No prior approval was obtained from the RBI or authorized dealer for the extended credit period.
- The Enforcement Directorate alleged contravention of Section 6(3)(d) of FEMA, read with Regulation 5(3) of the FEMA (Borrowing or Lending in Foreign Exchange) Regulations, 2000.

#### 3. Key Issues Considered

- Whether import of goods on credit constitutes a current account transaction or a capital account transaction under FEMA.
- Whether remittance beyond six months without RBI approval amounts to unauthorized borrowing in foreign exchange.
- Whether existence of a separate loan agreement is required to establish contravention.
- Appropriateness of the quantum of penalty imposed.

#### 4. Tribunal's Ruling

- Nature of Transaction: Import of goods on credit alters the importer's liabilities until payment and therefore falls within the scope of a capital account transaction under Section 6(3)(d) of FEMA.
- Borrowing -in Whatever Form": The phrase "borrowing or lending in foreign exchange in whatever form or by whatever name called" is of wide import and covers supplier's credit, even in the absence of a formal loan arrangement.
- No Need for Separate Loan Documentation: Where facts clearly indicate extended credit beyond the permitted period, the ED is not required to prove the existence of an independent loan agreement.
- Violation Established: Remittance beyond six months without RBI approval contravened Regulation 5(3) of the FEMA (Borrowing or Lending in Foreign Exchange) Regulations, 2000.
- Penalty Rationalization: Considering that the remittances were ultimately completed and the breach was technical, the Tribunal reduced the penalty from:

₹10 lakhs to ₹2 lakhs for the company, and  
₹1 lakh to ₹20,000 each for the directors.

## 5. Key Takeaways

- Nature Supplier's credit beyond six months is not a routine trade transaction and may trigger capital account implications under FEMA.
- RBI approval is mandatory for import credit extending beyond the prescribed period.
- Absence of a formal loan agreement does not mitigate FEMA exposure where borrowing is evident from facts.
- Even technical delays can attract FEMA penalties, though mitigating factors may influence quantum.

Case Law:

**S.K. Universal (P.) Ltd. v. Special Director, Directorate of Enforcement**

## B. Updates

### I. RBI Issues Amendment to Master Direction on Non Resident Investment in Debt Instruments

- The Reserve Bank of India (RBI) has issued an amendment to the Master Direction – Reserve Bank of India (Non resident Investment in Debt Instruments) Directions, 2025, consolidating instructions relating to non resident investments in debt instruments.
- The amendment consolidates RBI's directions issued from time to time on
  - Investments in debt instruments by Non Resident Indians (NRIs); and
  - Use of debt instruments acquired under FEMA regulations as collateral with recognized Stock Exchanges in India for transactions in exchange traded derivative contracts.
- These instructions are issued in continuation of the Foreign Exchange Management (Debt Instruments) Regulations, 2019 (Notification No. FEMA.396/2019 RB dated 17 October 2019).
- The consolidated and updated Master Direction is applicable to all Authorized Dealer Category-I banks.
- The directions have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999, and are without prejudice to approvals or permissions required under other applicable laws.
- AD Category-I banks are advised to bring the contents of this amendment to the notice of their constituents and customers.
- Market participants dealing with non-resident investments in debt instruments should review the updated Master Direction to ensure continued compliance.

**Notification:**

<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT10BD72BEB5FFC146F8A132627547ECB89B.PDF>

## C. RBI Updates FAQs on FLA Return

Some common questions regarding FLA are covered below::

### 1. Books Not Audited by 15th July – How to Proceed?

If accounts are not audited by 15th July, the FLA return can be filed using provisional/unaudited figures. Once the audit is completed, a revised FLA return must be filed with audited figures after obtaining RBI approval through the FLAIR portal, irrespective of the percentage of variation. (FAQ Q-6).

### 2. Want to Modify a Previously Filed FLA?

Modification is permitted after obtaining RBI approval.

Steps: Login to FLAIR → Menu (upper left corner) → Multiple Year CIN Enable Screen → Select Year → Submit. (FAQ Q-10).

### 3. Outstanding in Previous Year but Not in Current Year – Is Filing Required?

Yes. If there was outstanding FDI/ODI as of end-March of the previous year but not in the current year, filing is still required since the form captures data for two consecutive years. (FAQ Q-13).

### 4. Whether CCD Qualifies as FDI?

Compulsorily Convertible Debentures (CCD) should not be included in paid-up capital. They are required to be reported under the 'Other Capital' component of FDI. (FAQ Q-30).

### 5. How to Proceed If FLA Not Filed for Earlier Years?

Approval from RBI is required before filing earlier year returns. And compounding Application is to make separately on PRAVAAH Portal.

Steps:

Login to FLAIR Portal → Menu → Multiple Year CIN Enable Screen → Select relevant previous year(s) → Click "-->" → Click "Request".

After sending the request, wait at least one working day for RBI approval.

You can check the approval status in the same screen.

**Note:** If FLA return for an approved year is not filed, requests for other years will not be allowed.

# GST UPDATE



## Introduction

In a significant and welcome development for Indian businesses — particularly holding companies and group entities — the Bombay High Court (Nagpur Bench) has delivered a landmark ruling on the taxability of corporate guarantees under Goods and Services Tax (GST) law. The judgment, pronounced on 6th May 2026 in the case of D P Jain & Co. Infrastructure Private Limited vs. Union of India, answers a question that has troubled businesses and tax professionals for years:

**"Is a corporate guarantee given by a parent company to its subsidiary — without charging any fee or commission — liable to GST?"**

The Court's clear and emphatic answer: NO — where there is no consideration, there is no supply, and hence no GST can be levied.

CASE AT A GLANCE	
Case Name	D P Jain & Co. Infrastructure Pvt. Ltd. vs. Union of India & Ors.
Citation	TS-333-HC(BOM)-2026-GST   Writ Petition No. 2087 of 2025
Court	Bombay High Court, Nagpur Bench
Date of Decision	6th May, 2026
Judges	Justice Urmila Joshi Phalke & Justice Nivedita P. Mehta
Ruling in Favour of	Petitioner (Taxpayer)

## Background: What Is a Corporate Guarantee?

When a parent or holding company approaches a bank to help its subsidiary or group company to get a loan, the bank often asks for a guarantee from the parent company. This guarantee — known as a corporate guarantee — is essentially a promise by the parent company that if the subsidiary fails to repay the loan, the parent will step in and repay it.

A bank guarantee, on the other hand, is issued by a bank on behalf of its customer to a third party. Banks charge a fee for issuing such guarantees because it is part of their commercial banking business.

Corporate guarantees, by contrast, are typically given by holding companies or group entities as an internal financial support mechanism — out of commercial necessity — and usually without any fee or commission being charged from the borrower subsidiary.

## What Happened in This Case?

M/s D P Jain & Co. Infrastructure Private Limited — a highway construction company — had provided three corporate guarantees in favour of its subsidiaries to secure term loans from the State Bank of India and the Bank of Maharashtra.

The combined value of these guaranteed loans was approximately Rs. 2,013 crore.

Importantly, each of the three guarantee deeds expressly stated that the guarantor (D P Jain) had not received and would not receive any security, fee, commission, or any other consideration from the borrower for giving the guarantee. This was not merely implied — it was explicitly written into the contract.

Despite this, the GST department initiated proceedings against the company, relying on:

- Circular No. 204/16/2023-GST (dated 27.10.2023) — which declared that corporate guarantee services, even when provided without consideration, would be treated as a taxable supply of service.
- Rule 28(2) of the CGST Rules, 2017 — which was inserted by Notification No. 52/2023 and deems the value of a corporate guarantee given by a supplier to a related person to be 1% per annum of the guaranteed amount (or the actual consideration, whichever is higher).

The department valued the alleged taxable supply at 1% per annum of the guaranteed amount and demanded GST on this deemed value. The company challenged both the tax demand and the validity of Rule 28(2) before the Bombay High Court.

## What Did the Court Decide?

### I. No Consideration = No Supply = No GST

The Court's most important finding is that consideration is the very foundation of a taxable supply under GST. Section 7 of the CGST Act, 2017 defines 'supply' to include all forms of transactions made for a consideration. Without consideration, there can be no supply. Without supply, there is no GST.

The Court relied heavily on the Supreme Court's judgment in Commissioner of CGST & Central Excise vs. Edelweiss Financial Services Ltd. (2023), where the Apex Court held that a corporate guarantee issued to a group company without any consideration is not a taxable service. The Supreme Court had observed that for any activity to be taxable, two elements must co-exist:

- A 'provider' of the service, AND
- A 'flow of consideration' for rendering the service.

In this case, the guarantor had expressly declared through a contractual clause that it had not received and would not receive any consideration. The Court found that this express contractual declaration squarely brought the case within the ratio of the Edelweiss judgment.

#### KEY LEGAL PRINCIPLE

"Executing a corporate guarantee to its subsidiary is not in the nature of supply and supply of service taxable under Section 9 of the CGST Act, 2017." — Bombay High Court, Nagpur Bench (May 2026)

### II. Corporate Guarantee vs. Bank Guarantee — A Critical Distinction

The Court drew an important distinction between a corporate guarantee and a bank guarantee, which is relevant to understanding why different GST treatment is justified:

Corporate Guarantee	Bank Guarantee
Given by parent/group company	Given by a bank or financial institution
In-house support mechanism	Commercial banking service offered to all customers
Typically without fee/consideration	Always for a charge/commission
Contingent contract (triggered only on default)	Definite financial instrument with clear service element

### III. Rule 28(2) Upheld — But With Important Limits

The petitioner also challenged Rule 28(2) of the CGST Rules, 2017 — the provision that deems the value of a corporate guarantee to be 1% per annum — as being ultra vires (beyond the legal authority conferred) to the CGST Act.

The Court declined to strike down this rule. It reasoned that fiscal legislation enjoys a strong presumption of constitutionality, and courts are generally reluctant to interfere with the government's policy choices in tax matters. Rule 28(2) was therefore held to be valid law.

However, the Court's finding that there is no 'supply' at all (due to absence of consideration) effectively means that Rule 28(2) — being a valuation rule — cannot be applied where the basic condition of 'supply' itself is not satisfied. A valuation rule can only operate once the existence of a 'supply' has been established.

#### WHAT THIS MEANS FOR YOUR BUSINESS

1. If your company has given a corporate guarantee to a subsidiary or group company without charging any fee or commission, you likely have NO GST liability on such guarantee.
2. Mere execution of a corporate guarantee deed — in itself — is not a 'supply of service' under GST law if no consideration flows from the borrower to the guarantor.
3. Rule 28(2) of CGST Rules (which deems a value of 1% per annum) has been upheld as valid law. It will apply to guarantees issued or renewed ON OR AFTER 26th October, 2023, provided the basic condition of 'supply' is met.
4. Guarantees executed BEFORE 26th October, 2023, where no consideration was charged, will be governed by the earlier valuation rules — and if the transaction value is zero (no consideration), no GST should arise.

#### Why Is This Judgment Significant?

This judgment is important for several reasons:

- It is the first High Court ruling in India to categorically hold that a corporate guarantee without consideration is not a taxable supply under GST — aligning the GST position with the earlier service tax regime position established by the Supreme Court.
- It limits the reach of government circulars. The CBIC Circular No. 204/16/2023 had stated that corporate guarantees — even without consideration — would be treated as taxable services. The Court, by following the Supreme Court's Edelweiss ruling, has effectively neutralised this part of the circular for zero-consideration guarantees.
- It protects genuine intra-group financial arrangements from unwarranted tax demands. Parent companies supporting their subsidiaries through corporate guarantees need not feel compelled to pay GST where no commercial arrangement for compensation exists.
- It reaffirms the principle that 'consideration' is not just a procedural requirement under GST — it is a fundamental and non-negotiable ingredient of a taxable supply.

#### ACTION CHECKLIST FOR BUSINESSES

Review your corporate guarantee deeds	Check whether your agreements contain an express clause confirming zero consideration (no fee, commission or security). This clause is your strongest defence.
Identify the date of guarantee	If your guarantee was executed before 26th October, 2023, and no consideration was charged, this judgment directly protects you.
Respond to show cause notices	If you have received a GST show cause notice or demand for tax on corporate guarantees, this ruling is directly applicable. Do not ignore the notice — consult your tax advisor immediately.

Review guarantees after 26.10.2023	For guarantees issued or renewed after this date, Rule 28(2) applies. However, if the subsidiary is eligible for full input tax credit, the value declared in the invoice shall be deemed as the open market value.
Do not pay demand without legal review	Do not make payment under pressure without a proper legal assessment. Paying may amount to accepting tax liability which may not be legally required.

### Conclusion

The Bombay High Court has sent a clear message: the taxman cannot levy GST merely on the basis of circulars and deemed valuation rules when the fundamental legal ingredient of 'consideration' is completely absent. A corporate guarantee given by a holding company to its subsidiary — as a matter of commercial necessity and group support — without any fee, commission or compensation is not a taxable supply under Section 9 of the CGST Act, 2017.

At the same time, businesses should note that Rule 28(2) remains on the statute book and will apply to guarantees issued after 26th October, 2023 where consideration is involved or where supply can be established. The law in this area is evolving rapidly and fact-specific assessments are essential.

# DUE DATES



## Due dates of various compliances falling in the month of May 2026

Due Date	Act/Authority	Compliance Description
07-05-26	Income Tax	TDS and TCS Payment for deduction during the month of April - 2026
10-05-26	GST	Return (GSTR-7) to be furnished by the registered persons who are required to deduct tax at source for the month of April - 2026.
10-05-26	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 April - 2026
11-05-26	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 April - 2026.
13-05-26	GST	Statement of outward supplies (IFF) by the taxpayers having an aggregate turnover of upto Rs. 5 crore and who have opted for QRMP scheme for the month of April - 2026.
13-05-26	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 April - 2026.
13-05-26	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 April - 2026.
15-05-26	Income Tax	TCS Return for quarter ended 31 March (January to March)
15-05-26	PF/ESIC	Payment of PF / ESIC for the month of April - 2026
20-05-26	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 persons in India for the month of April - 2026.
20-05-26	GST	Return (GSTR-3B) to be furnished by all the taxpayers other than those who have opted for QRMP scheme comprising consolidated summary of outward and inward supplies for the month of April - 2026.

25-05-26	GST	Payment of GST for a Taxpayer with aggregate turnover upto Rs. 5 crores during the previous year and who has opted for filing of return under QRMP scheme for the month of April-2026.
30-05-26	LLP ACT	LLP-11-Annual Return of LLP
30-05-26	Company Act	PAS-6_Reconciliation of Share Capital Audit Certificate
30-05-26	Income Tax	Deposit of Tax Deducted at source (TDS) during the month of April - 2026 For transaction mentioned in table nos. 2(i), 3(i), 6(ii), 8(vi) as specified under section 393(1) of the Income tax Act 2025 [Section 194-IA, Section 194-IB, Section 194-IC and Section 194-ID of ITA 1961].
31-05-26	Income Tax	Statement of Financial Transactions (Form 61A/61B) for the preceding Financial Year
31-05-26	Income Tax	TDS Return for quarter ended 31 March (January to March)

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**LIFE IS 10% WHAT  
HAPPENS TO US AND 90%  
HOW WE REACT TO IT**

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