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NEWS LETTER

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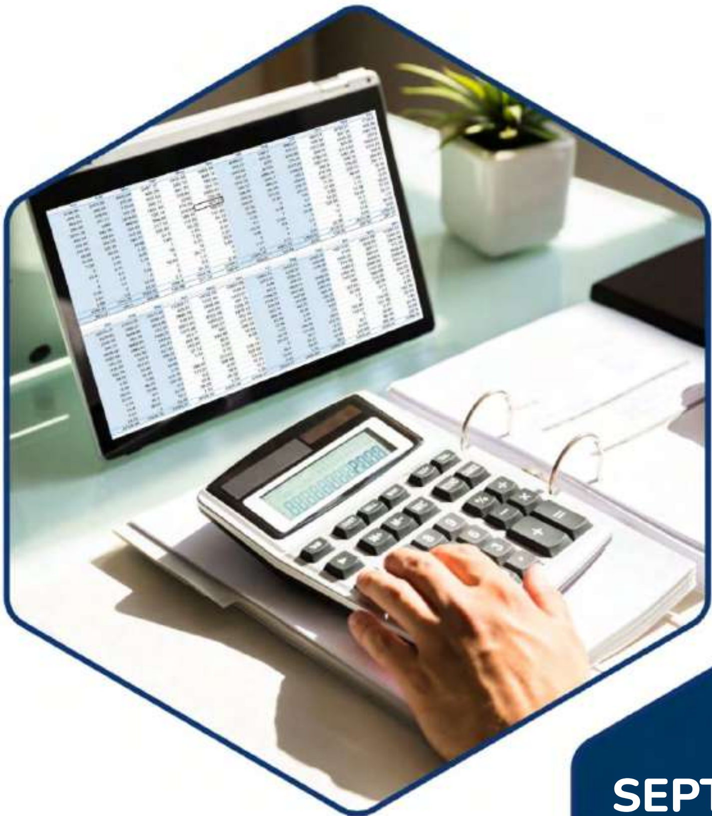

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DIRECT TAX UPDATE

I. Circulars & Notifications

Foreign Assets of Small Taxpayers- Disclosure Scheme Rules, 2026 (FAST- DS)
(C.B.D.T. Notification No. 114/2026 dated 14.08.2026)

The Finance Act, 2026 introduced the Foreign Assets of Small Taxpayers Disclosure Scheme, 2026 ('FAST Scheme') to provide amnesty to small taxpayers who either failed to disclose their foreign assets or income earned outside India or both in order to avoid stringent penalty and prosecution under the Black Money Act,2015.

C.B.D.T. has now notified Rules under the Foreign Assets of Small Taxpayers- Disclosure Scheme as was introduced by the Finance Act, 2026. The Scheme is open from 16th August,2026 to 31st December,2026. Below is the link to access the Rules :

https://www.incometaxindia.gov.in/documents/d/guest/notification-no-114-2026-pdf

Further C.B.D.T. has also notified FAQ in regard to clarification of queries on the Scheme. Below is the link to access the same :

https://www.incometaxindia.gov.in/documents/81799/15520974/FAST-DS-FAQs.pdf

II. High Court Decisions

Section 37(1) : Project expenses incurred wholly and exclusively for business purposes without corresponding income-Allowable

Pr.C.I.T. v. Gujarat State Road Development Corporation Ltd.
[2026] 189 taxmann.com 568 (Gujarat)

Facts of the Case:

The assessee company engaged in building infrastructure projects (roads) and receiving government grants for road projects, filed its return for A.Y. 2011-12 declaring income of about Rs.2.55 crores. The dispute concerned expenses claimed on certain projects in the year against which no income was recognized.

The Assessing Officer disallowed project expenses of about Rs.6.48 crores on the ground that no corresponding income was offered in respect of those projects.

Decision:

The Gujarat High Court affirmed the order of CIT(Appeals) holding that the expenses related to the projects undertaken by the assessee, were incurred wholly and exclusively for the purpose of carrying out the business of the assessee, i.e. development and maintenance of road infrastructure and merely because no income has been booked against the same, it would not result into disallowance of such expenses as the project work was carried out by the assessee for the benefit of the public at large, without any assistance from the Government by way of grant.

III. Tribunal Decisions

Section 2(24)(xviii) : MEIS benefits for exports chargeable as revenue receipts
DCIT v. Aarti Drugs Ltd. [2026] 189 taxmann.com 964 (Mum – Trib)(SB)

Facts of the Case:

The assessee–company was engaged in manufacturing of specialty chemicals and bulk drugs. During assessment years 2016-17 and 2017-18, it received benefits under the Merchandise Exports from India Scheme (MEIS) introduced under the Foreign Trade Policy, 2015. The assessee treated amounts received as revenue receipts and subsequently changed its claim before CIT(Appeals) as 'capital receipts'. CIT(Appeal) allowed .

The Division Bench referred the question to a Special Bench.

Decision:

The Special Bench, Mumbai Tribunal, decided the case against the assessee after analyzing the amended provisions of section 2(24)(xviii) of the Income tax Act,1961 ,various Supreme court decisions and the MEIS Scheme.

The Special Bench observed that the MEIS is a part of the Foreign Trade Policy, 2015-20 notified under the Foreign Trade (Development and Regulation) Act, 1992. The FTP - 2015-20 was launched on April 1, 2015 introducing a slew of measures by providing a framework for increasing exports of goods and services, generation of employment and increasing value addition, in keeping with the 'Make in India' vision of the government. MEIS envisages providing 'reward' to exporters of notified goods to notified markets in the form of 'duty credit scrips' for offsetting infrastructural inefficiencies and associated costs, involved in export of goods/products which are produced/manufactured in India, especially those having high export intensity, employment potential and thereby enhancing the country's export competitiveness. The duty credit scrips and the goods imported/ domestically procured against them shall be freely transferable. The duty credit scrips can also be utilised for a wide range of duty/taxes/fee payments.

The Special Bench held that the issue has to be principally examined in the context of the decision of Supreme Court in the case of Sahney Steel & Press Works Ltd. v. CIT[1997] 94 Taxman 368/228 ITR 253 (SC) and CIT v. Ponni Sugars & Chemicals Ltd. [2008] 174 Taxman87/306 ITR 392 (SC) which lay down the 'purpose test' for determining the nature of any such assistance or reward and secondly, in the context of the introduction of clause (xviii) to section 2(24).

The Bench held that the 'purpose test' as laid down by the Supreme Court has been holding field since long and is relevant for determining the nature of any government aid 'by whatever name called'.

Applying the legal proposition so laid down by the Supreme Courts to the MEIS scheme under consideration, the MEIS scheme rewards are provided to compensate for cost inherent in the ordinary course of exporting, such as freight, logistic, other related for seen/unforeseen transaction cost in relation to export of goods and thus to compensate for infrastructural handicaps/challenges in relation to export of goods, which, at times are beyond the control of the exporters and thus leading to inefficiencies, both in terms of time and cost. The objective is thus to compensate the exporters for such costs and to encourage them in maintaining their export competitiveness vis-a-vis other exporters. This is qualitatively identical to Sahney Steel fact pattern, where the subsidy was meant to meet recurring expenses and was not for acquiring the capital asset and not granted for production of or bringing into existence any new asset. There is nothing in the MEIS objective which speaks of setting up of new unit, capacity expansion, or capital investment. It is therefore found that on the purpose test, MEIS scheme aligns with the revenue side of the Ponni Sugars (supra) decision.

The Bench held that 'reward' would take into its ambit one or the other categories as set out in Section 2(24)(xviii) of the Act. Thus, applying the principle of ejusdem generis, the phrase 'by whatever name called' at the end of the seven categories as set out in clause (xviii) of Section 2(24) of the Act would certainly include assistance given under MEIS as a reward. MEIS rewards fit comfortably within at least three of the alternative description in the clause. MEIS is not tied to acquisition of any specific asset, it is computed on export turnover, not capital expenditure, so there is no actual cost adjustment under Explanation 10 to Section 43(1) in which it could be absorbed. In the event, if assistance under the MEIS is excluded, it would enlarge the scope of clause (a) and (b) of Section2(24) of the Act, which is not permissible.

Section 2(24)(xviii), as introduced with effect from 01-04-2016, and particularly, the phrase 'assistance by whatever name called' is all pervasive and would take into its ambit the nature of assistance extended under the MEIS.

The Special Bench held that in view of the amended provisions of Section 2(24) introducing clause (xviii) with effect from 2016-17, the amount received by the assessee under the MEIS of the Foreign Trade Policy, 2015 is held taxable as a revenue receipt.

Our Comment:

The Special Bench, ITAT Mumbai, ruling settles conflicting views among lower benches which may end the litigations on treatment of benefit under MEIS and similar scheme as well. The Special Bench has decided the issue by interpreting the phrase ‘by whatever name called' as set out in clause (xviii) of Section 2(24) of the Income tax Act,1961 (corresponding Section 2(49)(w) of the Income tax Act,2025) and the ‘purpose test’.

ii. Section 45 - Repurchase of vested stock options is Transfer & taxable as capital gains & not salary perquisite

Pramod Kumar Jain v. DCIT [2026] 189 taxmann.com 66 (Bangalore - Trib.)

Facts of the Case:

The assessee, an individual employee of Flipkart India Private Limited (FIPL), was granted 40,536 stock options by Flipkart Private Limited, Singapore (FKS) under the Flipkart Stock Option Scheme, 2012. During the year, FKS repurchased 2,653 vested options from the assessee for about Rs.2.34 crores. The assessee had never exercised any options and no shares were allotted. In the return of income, the assessee disclosed gross salary of about Rs.1.90 crores and offered about Rs. 2.34 crores as long-term capital gains, treating the repurchase consideration under the head 'Capital Gains'.

The Assessing Officer in his proceedings under section 147 and noted that Form-16 reflected the repurchase amount as a perquisite under section 17(2) with TDS under section 192, and that the Letters of Offer for repurchase stated the amount would be taxable under 'Income from Salaries' and reflected in Form-16. The AO added the repurchase consideration of about Rs.2.34 crores as a perquisite under section 17(2), taxable under the head 'Salaries', and not taxable as long-term capital gains.

Decision:

The Bangalore Tribunal observed that the stock options granted to the assessee were never exercised, and the consideration was paid by FKS only against the repurchase of vested stock options. The Tribunal observed the various stages from vesting of stock options to the allotment of shares, which are : - (i) Issuance of stock options (ii) Vesting of stock options (iii) Exercise of stock options (iv) Issuance of shares (v) Sale of shares.

The Tribunal observed that as per the Flipkart Stock Option Scheme, 2012, pursuant to the vesting of stock options, the option holder has a right, but not an obligation, to purchase or subscribe at a future date to the shares underlying the options at a predetermined price. However, since the shares of FKS were not listed on any recognised stock exchange, the assessee could never exercise the stock options vested in him. Therefore, in the present case, it is ostensible that only the first two stages could be completed in the entire process mentioned above.

The Tribunal held that as per the provisions of section 17(2)(vi) of the Income Tax Act, 1961, the value of any specified security allotted or transferred, directly or indirectly, by the employer or former employer, free of cost or at a concessional rate to the employee, is considered as a perquisite for the purpose of taxation under the head "Salaries". The term "specified security", as per Explanation (a) to the aforesaid provision, includes within its definition securities offered under employees' stock option plan. Further, as per Explanation (c) to the aforesaid provision, the value of the specified security shall be the fair market value of the specified security on the date on which the option is exercised by the assessee, as reduced by the amount actually paid or recovered from the assessee in respect of such security.

The Tribunal held that from the careful perusal of the provisions of section 17(2)(vi) of the Act, it is worth noticing that the employees' stock option by itself is not considered as the "specified security" for the purpose of section 17(2)(vi) of the Act and it is only the security offered under the employees' stock option plan, which is allotted or transferred by the employer, free of cost or at concessional rate to the employee, that is considered as the "specified security" for the purpose of taxation under the head "Salaries". This interpretation is further supported by the plain reading of the provisions of the Explanation (c) to section 17(2)(vi) of the Act, which provides that the value of the specified security shall be the fair market value of the same on the date on which the option is exercised by the employee as reduced by the actual amount paid or recovered from the employee in respect of such security.

Accordingly, the Tribunal held that only after the option granted to the employee under the employees' stock option plan is exercised, the incidence for taxability under the provisions of section 17(2)(vi) of the Act arises. Until then, it is merely an employee's stock option which cannot be considered to be a "specified security" under the provisions of section 17(2)(vi) of the Act.

The Tribunal held that in the present case, the stock options granted to the assessee under FSOP 2012 were never exercised, and no shares were ever allotted to the assessee under the Flipkart Stock Option Scheme, 2012, and the "specified security" within the meaning of provisions of section 17(2)(vi) of the Act did not come into existence, and therefore, no value can be assigned to it. Therefore, the consideration received by the assessee, upon repurchase of vested options by the FKS, cannot be taxed under the head "Salaries" as "perquisite" .

The Tribunal held that the stock option vested in the assessee by FKS under FSOP 2012 is a capital asset, being the right to subscribe to the shares underlying the options at a future date. In the present case, repurchase falls within the definition of "transfer" under section 2(47) of the Act. And is taxable under section 45 of the Act, and the assessee rightly offered for taxation the consideration received upon repurchase of the vested stock options by FKS as long-term capital gains.

Further, the Tribunal held that nevertheless the employer of the assessee, treated same as a perquisite under section 17(2) of the Act, and the tax was deducted under section 192, it is the golden rule of tax, as laid down in Article 265 of the Constitution of India, that no tax can be collected except by authority of law. It is also well established that if the assessee, under a mistake, misconception or on not being properly instructed, is over-assesseed, the authorities under the Act are required to assist him and ensure that only legitimate tax dues are collected. Further, it is pertinent to note that the deduction of TDS by the payer is not the ultimate determinative factor on the taxability of income in the hands of the payee, as the deduction of tax at source is only an advance mechanism for the collection of tax and not the final tax liability of the payee. Therefore, the Tribunal held that the Revenue erred in placing reliance on the Form-16.

Our Comments

The Tribunal decision provides that unless the ESOP is exercised, same can be taxed as salary perquisites under section 17(2) vi) of the I.Tax Act,1961, otherwise repurchase of vested ESOP results into 'transfer' and liable for tax under section 45 as 'capital gain'. The Tribunal also held that merely TDS deducted by employer under section 192 can not be the ultimate determinative factor on the taxability of income in the hands of the payee, as the deduction of tax at source is only an advance mechanism for the collection of tax and not the final tax liability of the payee.

ACCOUNTING UPDATE

1. **Classification of Bank Fixed Deposits held under Lien as Current or Non-Current Assets (Ind AS 1 / Schedule III)**
   - **Context:** A company avails Bank Guarantee (BG) and Letter of Credit (LC) facilities against a general lien on its total deposits or against specific deposit-backed (margin money) arrangements. The deposits predominantly carry original maturity of less than 12 months. During the FY 2024-25 audit, the C&AG observed that ₹22,257.31 lakhs of deposits held under lien against borrowings/BG/LC with claim-end dates beyond 12 months are not realisable within the operating cycle and should be non-current; the Company argued that, per Schedule III, deposits with original maturity below 12 months are current.
   - **Issue:** Whether bank FDs with original maturity of less than 12 months but held under lien against BG/LC/ borrowing facilities extending beyond 12 months should be classified as 'Current' or 'Non-Current' assets – i.e. whether contractual maturity or the underlying lien period governs classification, including where deposits are under a general lien that cannot be linked to specific facilities.
   - **Opinion:**
     - → Each asset is assesseed as current or non-current at the reporting date against the definition of 'current asset' under Ind AS 1 and Division II of Schedule III.
     - → These deposits are not 'cash equivalents' (they are not held to meet short-term cash commitments), and deposits with original maturity below 12 months would generally qualify as current assets.
     - → However, classification cannot rest on contractual maturity alone – the substance/economic reality of the entity's expectation of realisation must be considered.
     - → Where lien restrictions mean a deposit is, in substance, not expected to be realised within 12 months, or must be continued/renewed to support long-term BG/LC/borrowing arrangements, it should be classified as a non-current asset.
     - → Deposits held as margin money/security that still meet the 'current asset' definition should be presented as financial assets under current assets, with separate disclosure as 'bank balances other than cash and cash equivalents'.

2. **Capitalisation of Repair, Recovery and Reinstallation Costs of Damaged Assets during the Construction Phase (Ind AS 16)**
   - **Context:** An oil & gas producer developing an offshore field through LSTK contracts had subsea assets (a Subsea Distribution Unit and associated umbilical) installed and certified, which later toppled/were displaced (most likely due to a drilling-rig anchor during demobilisation) before commissioning ('First Oil'). The Company capitalised the recovery, repair and reinstallation cost as CWIP PPE as directly attributable cost. The C&AG objected that it is an abnormal cost/loss to be expensed. A Contractor's All Risks (CAR) insurance claim is pending.
   - **Issue:** Whether capitalising the reinstatement expenditure incurred during the construction phase is appropriate under Ind AS 16; and whether expected insurance proceeds should be adjusted against the asset cost or recognised as income in profit and loss.

- **Opinion:**
  - → The damage occurred after proper installation, so the outlay is rectification of damage subsequent to installation – not expenditure to complete an unfinished construction/development activity.
  - → Impairment/loss of PPE, related third-party compensation and any subsequent replacement are separate economic events (para 66, Ind AS 16); the Company should first assess impairment under Ind AS 36 and recognise any impairment loss in P&L, and evaluate whether destroyed components require derecognition (paras 66(b)/67).
  - → Only costs directly attributable to bringing PPE to working condition may be capitalised; abnormal amounts of wasted material, labour or resources (para 22) cannot be capitalised – judgement on the specific facts decides whether the reinstatement cost is capitalised or expensed.
  - → Expected insurance proceeds (compensation for impaired/lost PPE) should be recognised in profit and loss when they become receivable (paras 65–66, Ind AS 16) – not netted against the cost of the asset.

3. Accounting for a Restoration Obligation under a Service Concession Arrangement (Ind AS 37)

- **Context:** A company operates a project railway under a ~30-year Service Concession Arrangement with the Ministry of Railways, and is contractually obliged to keep the project assets in working condition and replace assets whose lives expire, at its own cost. In the FY 2024-25 audit the C&AG observed a total restoration/ replacement obligation of ₹14,200 lakhs against which the Company had provided only ₹1,045.25 lakhs – a short provision of ₹13,154.75 lakhs – and contended the full amount should be recognised.
- **Issue:** Whether recognising the restoration obligation progressively over the concession period (annual allocation of expense plus finance cost on a systematic basis) is appropriate, or whether the entire obligation should be recognised upfront in profit and loss as suggested by the C&AG.
- **Opinion:**
  - → Under Appendix D to Ind AS 115, a contractual obligation to maintain or restore infrastructure is accounted for under Ind AS 37; here it is a maintenance obligation (no upgrade element) and is not reimbursed by the grantor (MoR).
  - → The obligation arises from use of the project assets during the operating phase, with service potential assumed to be consumed evenly over the assets' useful life.
  - → Under Ind AS 37 the provision is the best estimate to settle the present obligation at each reporting date; since that estimate is proportional to use to date and grows each year, the provision should be built up in annual increments charged to profit and loss over the assets' useful life until their expected replacement/ restoration.
  - → The provision must be discounted to present value, and the unwinding of the discount (increase for the passage of time) is recognised as finance/borrowing cost.
  - → Accordingly, the Company's in-principle approach of building the provision progressively over the concession period – rather than recognising the entire amount upfront – is in accordance with Ind AS 37.

Source (ICAI e-Journal – Expert Advisory Committee, Gist of Opinions):

https://www.icai.org/post/icai-e-journal-main

COMPANY LAW UPDATE

A Companies (Indian Accounting Standards) Amendment Rules, 2026 Notified:

The Ministry of Corporate Affairs (MCA), vide Notification No. G.S.R. 725(E) dated August 12, 2026, issued under Section 133 read with Section 469 of the Companies Act, 2013, has notified the Companies (Indian Accounting Standards) Amendment Rules, 2026 with effective date from April 1, 2026.

The amendment revises certain accounting and disclosure requirements under Ind AS 101, Ind AS 107, Ind AS 109, Ind AS 110 and Ind AS 7, Enhanced disclosure requirements and revised accounting treatment for financial instruments and renewable energy contracts (solar/wind PPAs).

The Notification can be accessed at:

https://www.mca.gov.in/bin/dms/getdocument?mds=or7qLBnXTOzP8cLwIQLfzw%253D%253D&type=open

IFSCA UPDATE

A. Directions to all Regulated Entities

IFSCA, vide Circular No. IFSCA-LPRA/9/2024-Legal and Regulatory Affairs dated August 10, 2026, issued under Sections 12 & 13 of the IFSCA Act, 2019 read with Rule 19(6A) of the SEZ Rules, 2006, has directed all Regulated Entities to maintain a valid LoA and applicable Regulatory Instruments at all times. Non-compliance may result in penalties, suspension or cancellation of approvals. The circular supersedes the earlier circular dated April 03, 2025.

The Circular can be accessed at:
https://ifsca.gov.in/CommonDirect/GetFileView?id=29709e474fe6b066fc0cb19f7dd68540&fileName=Circular___Directions_to_All_REs_20260810_0215.pdf

B. Requirement for Fund Management Entities (FMEs) to maintain a Website or Webpage

IFSCA, vide Circular No. IFSCA-SOF/2/2026-Capital Markets dated August 26, 2026, issued under Section 12(1) and Section 13(1) of the IFSCA Act, 2019 read with Regulation 146 of the IFSCA (Fund Management) Regulations, 2025, IFSCA has mandated FMEs to maintain a website/webpage containing prescribed information relating to IFSC operations, schemes, key personnel, grievance redressal and regulatory disclosures on or before December 01, 2026.

The Circular can be accessed at:
https://ifsca.gov.in/CommonDirect/GetFileView?id=b64bc220b28b988fb41d0459994ee804&fileName=Circular_Requirement_for_Fund_Management_Entities__FMEs__to_maintain_a_website_or_webpage_26_Aug_2026_20260827_0806.pdf

C. Extension of Timeline for Obtaining ISINs from a Recognised Depository in IFSC

IFSCA, vide Circular No. F. No. IFSCA-PLNP/85/2025-Capital Markets dated August 25, 2026, issued under Sections 12 and 13 of the IFSCA Act, 2019 read with Regulation 72 of the IFSCA (Market Infrastructure Institutions) Regulations, 2021, has extended the timeline for IFSC units to obtain new ISINs from 31 August 2026 to 31 December 2026 and Compliance report submission deadline has been extended to 31 January 2027

The Circular can be accessed at:
https://ifsca.gov.in/CommonDirect/GetFileView?id=b64bc220b28b988fb41d045999453321&fileName=Circular___Extension_of_timeline_for_ISIN_transfer___final_20260825_0503.pdf

SEBI UPDATE

A. Amendment to SEBI (Issue and Listing of Municipal Debt Securities) Regulations, 2015:

SEBI, vide Circular No. HO/17/11/24(1)2026-DDHS-POD1/I/18526/2026 dated August 11, 2026, issued under Section 11(1) of the SEBI Act, 1992 read with Regulation 29 of the SEBI (Issue and Listing of Municipal Debt Securities) Regulations, 2015, has prescribed operational changes for municipal debt securities.

The circular, inter alia, provides face value norms for privately placed municipal debt securities, introduces a two-step escrow mechanism for pooled finance vehicles/SPVs and extends the timelines for submission of financial results from 45 days to 60 days (half-yearly) and from 60 days to 90 days (annual audited results).

The Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/aug-2026/amendment-to-sebi-issue-and-listing-of-municipal-debt-securities-regulations-2015-ilmds-regulations-_103488.html

B. Framework for Calculation of Net Distributable Cash Flows (NDCF) for Infrastructure Investment Trusts(InvITs):

SEBI, vide Circular No. HO/17/11/17(5)2026-DDHS-POD2/I/18791/2026 dated August 14, 2026, issued under Section 11(1) of the SEBI Act, 1992 read with Regulation 33 of the SEBI (Infrastructure Investment Trusts) Regulations, 2014, has revised the framework for calculation of Net Distributable Cash Flows (NDCF) for InvITs.

The circular permits road project major maintenance expenses funded through external borrowings to be added back while calculating NDCF, subject to unitholder approval, Auditor certification and specified disclosure requirements.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/aug-2026/framework-for-calculation-of-net-distributable-cash-flows-for-invits_103644.html

C. Modification in Regulatory Framework for Online Bond Platform Providers (OBPPs):

SEBI, vide Circular No. HO/17/11/(2)2026-DDHS-POD1/I/18769/2026 dated August 14, 2026, issued under Section 11(1) of the SEBI Act, 1992 read with Regulation 55(1) of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021, has modified the regulatory framework for Online Bond Platform Providers (OBPPs) by permitting the offering of IFSCA-regulated products and 54EC tax-saving bonds on their platforms and rationalising compliance officer requirements to facilitate ease of doing business.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/aug-2026/modification-in-the-regulatory-framework-for-online-bond-platform-providers-obpps-including-measures-for-promoting-ease-of-doing-business_103647.html

D. Revision of Application Form for Mutual Fund Registration:

SEBI, vide Circular No. HO/24/11/36(24)2026-IMD-RAC4/I/18849/2026 dated August 17, 2026, issued under Section 11(1) of the SEBI Act, 1992 read with the SEBI (Mutual Funds) Regulations, 2026, has revised the application form for registration of Mutual Funds.

Multiple registration forms merged into one single application form for Mutual Fund registration, making the process more streamlined and efficient.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/aug-2026/revision-of-application-form-for-mutual-fund-registration_103721.html

E. Sharing of KYC Information with IFSCA Regulated Entities:

SEBI, vide Circular No. HO/38/15/(7)2026-MIRSD-POD/I/19255/2026 dated August 20, 2026, issued under Section 11(1) of the SEBI Act, 1992 read with Regulation 16A(1) of the SEBI (KYC Registration Agency) Regulations, 2011, has included IFSCA under the KRA framework.

IFSCA-regulated entities can now use KRA records for KYC verification, reducing duplication of KYC processes and improving ease of onboarding for investors.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/aug-2026/enabling-sharing-of-information-by-kyc-registration-agencies-kras-with-entities-regulated-by-international-financial-services-centres-authority_103823.html

F. Acceptance of Digitally Signed Power of Attorney from FPIs:

SEBI, vide Circular No. HO/19/34/14(8)2026-AFD-POD2/I/19251/2026 dated August 20, 2026, issued under Section 11(1) of the SEBI Act, 1992 read with Regulation 44 of the SEBI (Foreign Portfolio Investors) Regulations, 2019, has permitted the acceptance of digitally signed Power of Attorney (PoA) from FPIs.

FPIs can now submit digitally signed PoAs, eliminating physical authentication requirements and enabling faster onboarding and documentation processes.

The Circular can be accessed at:

https://www.sebi.gov.in/legal/circulars/aug-2026/acceptance-of-digitally-signed-power-of-attorney-from-fpis_103824.html

FEMA UPDATE

A. Case Law

I. *Penalties - Imposition of - Pursuant to information that appellant was indulging in unauthorized fund transfers through non-banking channels, Enforcement Directorate conducted search at appellant's business and residential premises under FEMA read with Income-tax Act, and seized two loose sheets from office, three bunches of loose sheets from residence, and Indian currency of about Rs. 20 lakhs*

1. Summary

- → The Enforcement Directorate (ED) searched the appellant's business and residence on information that he was involved in Hawala/unauthorized fund transfers through non-banking channels.
- → During the search, loose sheets containing transaction details and ₹20 lakh cash were seized.
- → The appellant initially admitted in his statements that he was receiving and distributing money in India on instructions of Shri Selvam (Malaysia) and earning commission.
- → Later, he retracted his statements, alleging coercion.
- → ED issued a show cause notice for violations of Sections 3(b), 3(c) and 3(d) of FEMA and imposed penalties of about ₹42 lakh along with confiscation of ₹20 lakh cash.

2. Key Issues Considered

- → Whether the appellant's retracted statements could be relied upon?
- → Whether loose sheets seized during the search were admissible and had evidentiary value?
- → Whether denial of cross-examination violated principles of natural justice?
- → Whether the quantum of penalty imposed was excessive?

3. Key Tribunal's Findings

- → Retracted Statements Validly Relied Upon.
- → The appellant's statements were not the sole evidence.
- → They were supported by Seized loose sheets ₹20 lakh cash recovered.
- → Statements of beneficiaries and other persons.
- → Mere allegation of coercion without proof was not sufficient.
- → Therefore, the challenge to the evidentiary value of his statements was rejected.
- → The Tribunal held that loose sheets recovered during search are highly relevant evidence in search cases.
- → Such papers often reflect the actual financial transactions unlike regular books which may be manipulated.
- → Since the documents were seized from the appellant's possession, Section 39 of FEMA created a presumption that their contents were true.

4. Key Takeaways

- → Retracted statements can be relied upon when supported by independent evidence.
- → Loose sheets seized during search are strong evidence under FEMA.
- → Section 39 FEMA creates a presumption regarding seized documents.

- → Denial of cross-examination does not automatically invalidate FEMA proceedings.
- → Where a person acts only as a conduit and receives a small commission, penalty can be substantially reduced.

5. **Conclusions**
   - → Contraventions under FEMA were proved. The penalty order was upheld, but the quantum of penalty was reduced to ₹4,00,000 considering the appellant's limited role as a mere conduit in the Hawala transactions.

Case Law:

Ramakrishna Setty v. Directorate of Enforcement, Bangalore

B. UPDATES

I. *RBI has issued Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026 [FEMA 23(R)/2026-RB], which will become effective from 01 October 2026 and will replace the existing export and import master directions*

- → Key Changes Effective from 01.10.2026

1. **Single Regulation for Export and Import**
   - → RBI has consolidated export and import provisions into a single regulatory framework.
   - → The objective is to simplify FEMA compliances and improve ease of doing business.
2. **New Export Declaration Form (EDF)**
   - → A common Export Declaration Form (EDF) has been introduced.
   - → The definition of services includes software exports under the new framework.
3. **More Powers to AD Banks**
   - → Authorized Dealer (AD) Banks have been given greater operational flexibility.
   - → Several approvals and compliance-related matters can be handled by AD Banks based on their internal policies and assessment of bona fides, reducing the need for RBI approvals.
4. **Export Realisation Timelines**
   - → Standard export proceeds realization period: 15 months.
   - → For exports invoiced or settled in Indian Rupees (INR): 18 months.
5. **Overseas Warehouse Exports**
   - → For goods stored in overseas warehouses, export realization timelines may be linked to the date of sale instead of merely the shipment date, subject to conditions.
6. **Self-Declaration Closure Facility**
   - → Exporters may close export transactions up to ₹10 lakh per shipping bill/invoice through self-declaration, reducing compliance burden for small exporters
7. **Service Export Reporting**
   - → Service exports are required to be reported through EDF within 30 days from the end of the invoice month.
8. **Same AD Bank Requirement**
   - → Advance receipts and final export proceeds should generally be routed through the same AD Bank.
9. **Existing Directions Superseded**
   - → From 01.10.2026, the existing:
   - → Master Direction on Export of Goods and Services, and
   - → Master Direction on Import of Goods and Services,

Notification

https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NRAR23R16012026C1272B8B66944ED5A53741840B973363.PDF

Article on GST on Corporate Guarantees: Gujarat High Court Upholds GST Levy

The Gujarat High Court, in the case of Torrent Power Ltd., has held that GST can apply on corporate guarantees provided by a parent company to its subsidiary even when no fee or consideration is charged. At the same time, the Court has provided some relief by limiting the manner in which the value of such guarantees can be determined for GST purposes.

This decision differs from a recent ruling of the Bombay High Court in the D.P. Jain case, where it was held that a corporate guarantee given without any fee does not amount to a taxable supply under GST. As a result, different views currently exist on this issue.

Until the Supreme Court settles the matter, businesses may continue to face uncertainty regarding the GST treatment of corporate guarantees.

1. **Background**

   In October 2023, Rule 28(2) was introduced under the GST law to prescribe the valuation of corporate guarantees provided between related parties. Under this rule, the value of such guarantees is generally deemed to be 1% of the guaranteed amount per year or the actual consideration charged, whichever was higher under the original wording of the rule.

   Several companies challenged this provision before the Gujarat High Court, arguing that when a corporate guarantee is given without charging any fee, there is no supply and therefore no GST should be payable. They also challenged the prescribed valuation mechanism.

2. **Key Findings of the Gujarat High Court**

   The Court held that transactions between related parties can be treated as a supply even if no consideration is charged. Accordingly, a corporate guarantee provided by a parent company to its subsidiary can be covered under GST.

   The Court further observed that the subsidiary receives the benefit of the guarantee because it becomes easier for the subsidiary to obtain financial assistance from lenders. Therefore, the subsidiary can be regarded as the recipient of the service.

   The Court rejected the argument that a corporate guarantee should be treated as an actionable claim and therefore kept outside the GST net.

   The Court also clarified that a corporate guarantee should not automatically be regarded as a shareholder activity undertaken merely to protect an investment. The actual facts and commercial arrangement need to be examined in each case.

On the issue of timing, the Court held that GST liability can arise on a continuing basis as long as the guarantee continues to be recognised and disclosed by the subsidiary in its books and financial statements.

The validity of Rule 28(2) was upheld by the Court. However, the Court struck down the requirement of adopting the higher of the actual consideration and the prescribed 1% value in situations where genuine commercial consideration can be established. This is an important relief for taxpayers charging guarantee fees lower than 1%.

The Court also held that the valuation rule cannot be applied retrospectively to periods before 26 October 2023. Therefore, tax demands relating to periods prior to that date were set aside. However, guarantees continuing after that date may still be subject to GST prospectively.

Another important relief granted by the Court relates to penalty proceedings. It held that where the issue involves a bona fide interpretation of law, tax authorities should not automatically invoke extended limitation and penalty provisions merely because GST was not paid.

3. Bombay High Court's Contrary View

In the earlier D.P. Jain decision, the Bombay High Court had taken a different view. The Court held that where no fee, commission or consideration is charged for providing the corporate guarantee, no taxable supply arises under GST. Accordingly, proceedings initiated by the tax authorities were quashed.

The Gujarat High Court has now expressly disagreed with this reasoning and has distinguished the legal provisions applicable under GST from those considered in earlier service tax cases.

4. What Businesses Should Do

Businesses should review all corporate guarantees currently in force and identify whether they were issued before or after 26 October 2023. The GST implications may vary depending on the period involved.

Where guarantee fees are being charged at a rate lower than 1%, companies should maintain supporting documents and benchmarking records to justify the commercial basis of such pricing.

Businesses that have received notices relating to corporate guarantees should carefully evaluate whether the conditions for penalty and extended limitation have actually been satisfied.

5. Conclusion

The Gujarat High Court has confirmed that GST can apply on corporate guarantees provided between related parties even when no consideration is charged. At the same time, the judgment offers important relief by restricting the valuation mechanism and by ruling out retrospective application of the valuation rule before 26 October 2023.

Since the Gujarat and Bombay High Courts have taken opposite views on the fundamental issue of taxability, the final position is likely to be settled only after a decision from the Supreme Court. Until then, businesses should review their existing arrangements carefully and keep their legal positions protected through appropriate compliance and litigation measures.

DUE DATES

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

Due Date	Act/Authority	Compliance Description
07-09-26	Income Tax	Due date for the deposit of tax deducted/collected for the month of August 2026.
10-09-26	GST	Return (GSTR-7) to be furnished by the registered persons who are required to deduct tax at source for the month of AUGUST - 2026.
10-09-26	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 AUGUST - 2026
11-09-26	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 AUGUST - 2026.
13-09-26	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 AUGUST - 2026.
13-09-26	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 AUGUST - 2026.
13-09-26	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 AUGUST - 2026.
14-09-26	Income Tax	Issue of certificate in Form No. 132 (Income-tax Rules, 2026) under section 395(4) of the Income-tax Act 2025 for tax deducted at source under section 393(1) [Table Sl. No. 2(i), 3(i), 6(ii) & 8(vi)] of the Income-tax Act, 2025 in the month of July, 2026 [earlier Forms 16QB/16QC/16QD/16E]
15-09-26	Income Tax	Second instalment of advance tax for the Tax Year 2026-27
15-09-26	PF/ESIC	Payment of PF / ESIC for the month of AUGUST - 2026
20-09-26	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 AUGUST - 2026.

20-09-26	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 AUGUST - 2026.
25-09-26	GST	Payment of GST for a Taxpayer with agreegate turnover upto Rs. 5 crores during the previous year and who has opted for filing of return under QRMP scheme for the month of AUGUST-2026.
30-09-26	Income Tax	Furnishing of challan-cum-statement in Form No. 141 (Income-tax Rules, 2026) in respect of deduction of tax under section 393(1) [Table Sl. No. 2(i), 3(i), 6(ii) & 8(vi)] of the Income-tax Act, 2025 for the month of August 2026. [earlier Forms 26QB/26QC/26QD/26QE]
30-09-26	Income Tax	Furnishing of Audit report in Form No. 10B/10BB (Income-tax Rules, 1962) by a fund or trust or institution or any university or other educational institution or any hospital or other medical institution
30-09-26	Income Tax	Furnishing of Audit Report in Form No. 10CCB (Income-tax Rules, 1962) by assessee claiming deduction under section 80-I, 80-IA, 80-IB or section 80-IC (Income-tax Act, 1961) (if the assessee is required to submit the return of income on or before October 31, 2026)
30-09-26	Income Tax	Due date for filing of audit report under section 44AB (Income-tax Act, 1961) for the assessment year 2026-27 in the case of a corporate-assessee or non-corporate assessee (who is required to submit his/its return of income on October 31, 2026)
30-09-26	Companies Act, 2013	AGM to be held by every company (except OPC) on or before 30 September 2026 for approval of financial statements and other regular business for FY 2025-26.

THE MORE I WANT TO GET SOMETHING DONE, THE LESS I CALL IT WORK

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