



A Monthly E-Newsletter

Vol 05 Issue 5
May 2024

The Bottom Line

WHAT'S INSIDE

- Direct Taxes **2**
- Indirect Taxes **3**
- Corporate & Allied Laws **4**
- CFO Watch & M&A **5**
- In the News **6**
- Glossary **7**
- About Us **8**

KEY METRICS

Indices

BSE SENSEX	74,483	1.13%	▲
NSE NIFTY50	22,605	1.24%	▲
NASDAQ Composite	15,658	-4.41%	▼
NIKKEI 225	38,406	-4.39%	▼

Currency

USD/INR	83.45	-0.12%	▼
Euro/INR	88.99	1.02%	▲
GBP/INR	104.24	0.92%	▲
JPY/INR	0.53	3.85%	▲

Note: The month-on-month movement as on April 30, 2024 is represented in percentages
Source: NSE.com, BSE.com, NASDAQ.com, NIKKEI.com, Investing.com



DIRECT TAX

Notifications/Circulars

ITR verification timeline revised

The time limit of 30 days from the date of filing to verify ITR by taxpayer has now been revised. Now, ITR must be verified within 30 days of uploading the ITR or by the due date for furnishing the same as per the Act, whichever is later. Failure to e-verify the ITR within above timeframe shall render the ITR invalid.

Corrigendum to Notification no. 02 of 2024 dated April 04, 2024

Higher TDS not to be deducted if PAN becomes operative by May 2024

It was earlier notified that upon failure to link Aadhar with PAN, the PAN shall become inoperative, and the consequences of inoperative PAN would follow including non-receipt of refund and deduction/ collection of tax at higher rate, amongst others. Based on the grievances received from taxpayers, CBDT has exempted deductors/ collectors from such liabilities and consequences for transactions executed until March 31, 2024, whereby the PAN becomes operative by linking with Aadhaar before May 31, 2024.

Circular No.6/2024 dated April 23, 2024

Judicial Rulings

Valuation method for shares is an independent choice of assessee

The assessee had issued shares at premium during the year based

on the valuation of FMV obtained from a merchant banker as per DCF method. However, the AO, under provisions of section 56(2)(viib), determined the income by stating that the issue price is more than the FMV of shares by rejecting the DCF method adopted and independently valued the shares through the NAV method. The Hon'ble High Court held that while the AO is entitled to scrutinise the valuation report and/or determine the fresh FMV of shares, the basis for valuation as adopted by the assessee has to be the same. The choice to select method for calculation of FMV for the shares stands solely in the hands of assessee.

Agra Portfolio Pvt Ltd (Delhi High Court)

IUC is business income and not royalty

The company being a tax resident of Japan not having PE in India, received IUC from Indian telecom operators/ end users and claimed such receipts as business profits not taxable in India in absence of PE. Revenue held the IUC charges to be taxable as Royalty under the Act and India-Japan DTAA. The Tribunal, relying on the jurisdictional High Court's ruling in case of Vodafone Idea Ltd, ruled that receipt of IUC charges shall not be regarded as royalty as per the Act as it cannot override the provisions of DTAA which employs the word 'use or right to use' for 'secret formula or secret process' which is absent in extant case.

KDDI Corporation (Bangalore ITAT)

Higher TDS not to be deducted if PAN becomes operative by May 2024

Valuation Method for shares is an independent choice of assessee

IUC is business income and not royalty

Expenses relating to regular business activities not FTS

The Hon'ble High Court, dismissing Revenue's appeal, held that payments to non-resident AEs for expense reimbursement doesn't constitute FTS as they were integral to regular business activities and did not fall under the definition of FTS.

Jas Forwarding Pvt Ltd (Delhi High Court)



INDIRECT TAX

Circulars / Notifications / Press Releases

Auto-populated HSN summary

A new feature has been made available on the GST portal to auto-populate the HSN summary from e-invoices in Table 12 of GSTR-1.

Advisory dated April 09, 2024

Special procedure to be followed by manufacturer of tobacco products

The date of applicability of said procedure has been extended from April 01 to May 15, 2024.

Notification No. 08/2024-Central Tax dated April 10, 2024

Judicial Rulings

Secondment of employees

Interim stay has been granted against the demand raised in the SCN / Order, in relation to salaries paid to seconded employees, till conclusion of proceedings.

M/s Hyundai Motor India Ltd (Madras High Court), Sony India Pvt Ltd (New Delhi High Court), M/s Kanematsu India Pvt Ltd (Punjab and Haryana High Court), M/s Hitachi Astemo Gurugram Powertrain Systems Pvt Ltd (Allahabad High Court)

Holding shares in subsidiary company is not supply

Holding of share by the parent company in its subsidiary cannot be classified, treated or construed as 'supply of service' for the purpose of GST.

M/s Metro Cash and Carry Pvt Ltd (Karnataka High Court)

Blocking of ITC cannot result in negative balance

Rule 86(A) of the CGST Rules, 2017, allows blocking of ITC from whatever balance appearing in the

electronic credit ledger of the taxpayer. If the balance is not sufficient in the credit ledger, the Rules do not provide for insertion of negative balance in the ledger.

M/s Laxmi Fine Chem (Telangana High Court)

Refund of tax

Merely because of non-compatibility of data or conflicting stand taken by two authorities namely Customs department and GST department, taxpayer could not be denied an otherwise eligible refund.

M/s Venus Jewel (Bombay High Court)

GST on ocean freight

The stand taken by the revenue that decision of Supreme Court in M/s Mohit Minerals is applicable only to cases which involve the contract on CIF basis and not FOB contracts is totally untenable.

M/s Agarwal Coal Corporation Pvt Ltd (Bombay High Court)



Various High Courts grant stay regarding GST on seconded employees

Recovery action against directors not tenable

Holding shares in subsidiary is not a supply



Recovery of liability from directors

Section 89 of the CGST Act, 2017, clearly provides that before taking any action of recovery against the directors of the Company, a subjective satisfaction is required to be achieved by the concerned officer as to whether the director against whom recovery is sought to be made was a director of the Company for the concerned period. It is only after such satisfaction, the liability could be fastened against such director.

Mr. Prasanna Karunakar Shetty (Bombay High Court)

CORPORATE & ALLIED LAWS

Circulars / Notifications

Limits for investment in debt & sale of CDS by FPIs

RBI has recently issued a circular, focusing on investment limits for FPIs in debt instruments and regulations regarding CDS. The circular outlines the investment limits for FPIs in various debt instruments for the financial year 2024-25. Notable mentions include unchanged limits for government securities (g-sec), state government securities and corporate bonds. The circular maintains the allocation ratio of incremental changes in the g-sec limit between 'General' and 'Long-term' categories at 50:50 for the fiscal year. It also imposes guidelines regarding CDS, restricting the aggregate limit of the notional amount of CDS sold by FPIs to 5% of the outstanding stock of corporate bonds, with a specific additional limit for the year 2024-25.

RBI Circular No. RBI/2024-25/27 A.P (DIR Series) Circular No. 03 dated April 26, 2024

Additional flexibility to AIFs

SEBI has introduced the SEBI (Alternative Investment Funds) (Second Amendment) Regulations, 2024 to provide additional flexibility to AIFs and their investors to deal with unliquidated investments of their schemes. New regulations relating to the dissolution period have been inserted, stating that a scheme of an AIF may enter a dissolution period in the manner and subject to the conditions specified by the Board. Further, SEBI has introduced definitions of 'dissolution period' and 'encumbrance' under the existing regulations.

SEBI Notification No. SEBI/LAD-NRO/GN/2024/168 dated April 25, 2024

SFBs allowed Rupee Interest Rate Derivatives

RBI now has allowed the SFBs to deal in permissible rupee interest rate derivative products for hedging interest rate risk. This aims to expand the avenues available to the SFBs for hedging interest rate risk in their balance sheets and commercial operations more effectively and to provide them with greater flexibility. Earlier, RBI permitted SFBs to use only interest rate futures for the purpose of proprietary hedging.

RBI Circular No. RBI/2024-25/23 DOR MRG.REC.15/00.00.018/2024-25 dated April 23, 2024

Relaxation in intimation of changes in the terms of PPM for AIFs

AIFs will not be required to intimate any change in the terms of PPM through a merchant banker alongwith due diligence certification. AIFs can now file these directly with SEBI. This is a step towards facilitation of ease of doing business and rationalising the cost of compliance for AIFs. On similar grounds, Large Value Fund for Accredited Investors are exempted from intimating changes in the terms of PPM through a merchant banker.

Circular No. SEBI/HO/AFD/PoD/CIR/2024/028 dated April 29, 2024

Standardisation of the PPM Audit Report

It is mandatory for AIFs to conduct an annual audit of compliance with the terms of PPM. The audit reports are submitted to the Trustee or

Limits for investment in debt & sale of CDS by FPIs

Additional flexibility to AIFs

SFBs allowed Rupee Interest Rate Derivatives

Board of Directors or Designated Partners of the AIF as well as Board of Directors or Designated Partners of the Manager and SEBI. Now the reporting format have been standardised for uniformity in compliance standards and for ease of reporting.

Circular No. SEBI/HO/AFD/SEC-1/P/CIR/2024/22 dated April 18, 2024

Amendments to Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019

These Regulations have been amended to provide that the mode of payment of consideration for purchase of equity shares of an Indian company listed on an International Exchange shall be through banking channels, either to a foreign currency account of the Indian company or as inward remittance from abroad. Sale proceeds of equity shares, net of taxes, may be remitted outside India or credited to the bank account of the holder.

No. FEMA. 395(2)/2024-RB dated April 23, 2024

CFO WATCH

IRDAI mandates governance, risk, compliance and ESG frameworks for insurers

RBI notifies KFS for borrowers

RBI notifies KFS for borrowers

Starting October 1, 2024, RBI mandated lenders to provide a simplified KFS to borrowers of new retail and MSME term loans, offering essential loan details in a comprehensible format. KFS, a part of the loan agreement, must be acknowledged by borrowers and includes annual percentage rate computation, amortization schedule, and all charges. Explicit borrower consent is needed for charges not listed in KFS.

Stringent corporate governance framework for insurers

IRDAI has introduced the IRDAI (Corporate Governance for Insurers) Regulations, 2024, replacing previous guidelines. Key provisions include ensuring competent and independent directors on insurer boards, establishing robust risk management and internal control systems and addressing conflicts of interest. The regulations mandate appointment and tenure guidelines for KMPs, adoption of a comprehensive remuneration policy, and joint appointment of statutory auditors. Compliance and reporting obligations are specified, with the Chief Compliance Officer overseeing adherence. Additionally, insurers must implement ESG frameworks, including climate risk management.



MERGERS & ACQUISITIONS

Startup funding slowdown continues, recorded 40% decline from last year

Indian startups raised \$2 billion in funding in the Jan-Mar quarter in 2024, which was 40% lower as compared to \$3 billion in the same quarter last year. Similarly, fundings in Oct-Dec 2023 and Jul-Sep 2023 of 2023 also hovered around \$2 billion each, showing a flat curve in fundings of startup ecosystem.

Some of the trends in startup ecosystem:

- In 2024, the total funding in Jan, Feb and Mar was \$462 million, \$798 million and \$776 million respectively.
- In the last four months of 2024, Indian startups ecosystem has already added two unicorns to its fleet — fintech SaaS Perfios and Bhavish Aggarwal's AI venture Krutrim.
- Startups are exploring newer alternatives of funding including debt funding rather than only relying on traditional equity methods to manage operational expenses and enable growth without equity dilution.
- Prevailing trends demonstrate that seed and early-stage deals have witnessed increased term sheets and follow-on rounds.

Investors have changed their approach from hyped valuations to sustainable business models with balanced growth and profitability. They are closely and cautiously evaluating deals, particularly late-stage deals. Owing to all these factors, the deal activity is expected to pick up pace from the second half of 2024 and the funding winter is expected to come to an end.





Australia-India Skill Summit

April 8-9, 2024

Ajay Sethi, Managing Partner and Himanshu Srivastava, Director, Business Advisory Services, ASA were invited to a networking dinner hosted by Catherine Gallagher, Minister Commercial and Head of Australian Trade and Investment Commission (Austrade) South Asia.

At the Australia-India Skill Summit organized by Austrade, Himanshu presented insights on “Compliance and Legal Frameworks for Business Setup in India” to the Australian delegation.



Navigating ESG Transformations: Global Initiatives and India's Trailblazing Role

April 12, 2024

Author: Gaurav Bhatia, Executive Partner, Risk Advisory & Tarang Aggarwal, Deputy Manager, Risk Advisory, ASA

This article looks at the dynamic landscape of modern businesses, marked by a fundamental shift towards ethical practices and sustainability. At its core are the principles of Environmental, Social and Governance which have emerged as crucial benchmarks for investors seeking alignment with responsible business practices.



Indo-French Chamber of Commerce & Industry CEO Committee Meeting

- April 18, 2024

Ajay Sethi, Managing Partner, ASA attended the Indo-French Chamber of Commerce & Industry CEO Committee Meeting at the Taj Mahal Hotel, New Delhi. The focal point of the meeting was the growth trajectory of the Indian aviation industry, with a specific focus on the expansion plans of IndiGo (InterGlobe Aviation Ltd) and the business outlook for 2024-25 within the aviation sector.



GLOSSARY

AE

Associated Enterprise

FMV

Fair Market Value

MFN

IUC

RBI

Reserve Bank of India

AIF

Alternative Investment Fund

FOB

Free on Board

IUC

Interconnectivity Utility Charges

SCN

Show Cause Notice

AO

Assessing Officer

FPI

Foreign Portfolio Investor

KFS

Key Fact Statement

SEBI

Securities and Exchange Board of India

CBDT

Central Board of Direct Taxes

FTS

Fee for Technical Services

KMP

Key Managerial Personnel

SFB

Small Finance Bank

CDS

Credit Default Swaps

GST

Goods & Services Tax

MSME

Micro, Small, Medium Enterprise

TDS

Tax Deducted at Source

CIF

Cost, Insurance, Freight

HSN

Harmonised System of Nomenclature

NAV

Net Asset Value

DCF

Discounted Cash Flow

IRDAI

Insurance Regulatory & Development Authority of India

PAN

Permanent Account Number

DTAA

Double Taxation Avoidance Agreement

ITC

Input Tax Credit

PE

Permanent Establishment

ESG

Environment, Social, Governance

ITR

Income Tax Return

PPM

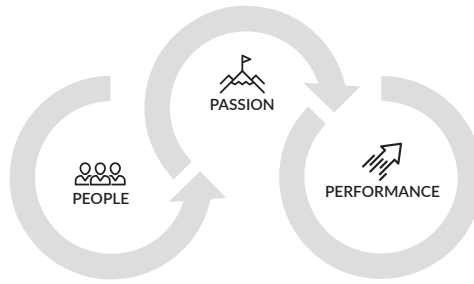
Private Placement Memorandum

We value your feedback.

Please send us your comments and suggestions at editorial@asa.in

ABOUT US

A full services firm of corporate strategists, accountants, tax advisory experts and financial and marketing analysts.



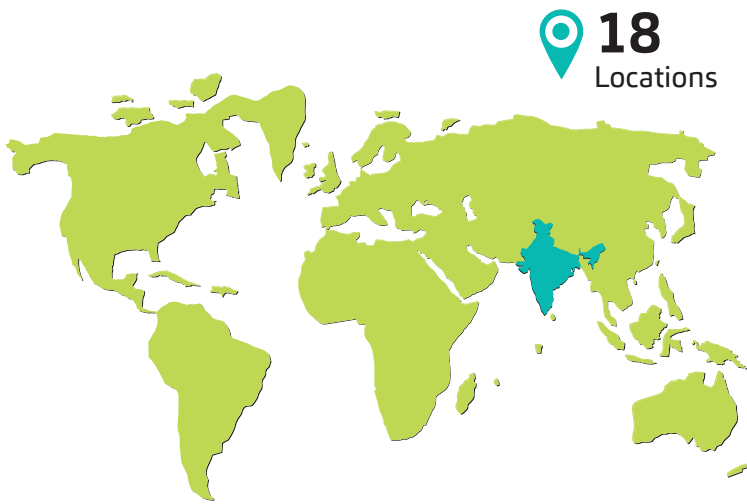
SERVICES

- Accounting and Business Support
- Assurance
- Business Advisory
- Digital Automation and Transformation
- Risk Advisory
- Taxation
- Transaction Advisory

Well structured teams with domain specialization are guided by leaders who possess expertise and experience and are present PAN India to ensure excellent client service.

PRESENTLY POSITIONED IN THE

TOP 10 ACCOUNTING & CONSULTING FIRMS



70 Partners/
Directors

6000+
Clients

1000+
In-house
Professionals

GLOBAL PRESENCE



43,000
Staff



658
Offices



141
Territories



\$5.2bn
Turnover



Disclaimer: This publication has been jointly prepared by ASA & Associates LLP and ASA Corporate Catalyst India Pvt Ltd. We have taken all steps to ensure that the information in this document has been obtained from reliable sources and is accurate. However, this document is not intended to give legal, tax, accounting or other professional guidance. We recommend appropriate advice be taken prior to initiating action on specific issues.



ASA Corporate Catalyst India

New Delhi (Corporate Office)

Aurobindo Tower
81/1 Third Floor Adchini
Aurobindo Marg
New Delhi 110 017, INDIA
T +91 11 4100 9999

Ahmedabad

306 - B, Pinnacle Business Park
Corporate Road, Prahlad Nagar
Ahmedabad, 380 015, INDIA
T + 91 79 4891 5409

Bengaluru

53/B, LOLS Citadel Level 2 & 3
1st Main Road, 3rd Phase
Sarakki Industrial Layout
J P Nagar, Bengaluru 560078, INDIA
T +91 80 4907 9600

Chennai

Unit No. 709 & 710,
7th Floor 'Beta Wing'
Raheja Towers, New Number 177
Anna Salai, Chennai 600 002, INDIA
T +91 44 4904 8200

Gurgaon

Times Square Fourth Floor
Block B, Sushant Lok 1
Gurgaon 122 002, INDIA
T +91 124 4333 100

Hyderabad

Vasavi's MPM Grand
11th Floor, Unit No 1204
Yella Reddy Guda Road, Ameerpet
Hyderabad Telangana 500 073, INDIA
T +91 40 2776 0423

Kochi

Pioneer Tower
207-208 Second Floor, Marine Drive
Kochi 682 031, INDIA
T +91 484 410 9999

Mumbai

Lotus Corporate Park
G-1801 CTS No.185/A
Graham Firth Compound
Western Express Highway, Goregaon East
Mumbai 400 063, INDIA
T +91 22 4921 4000

National Affiliates

Bhubaneswar, Chandigarh, Pune and
Vishakhapatnam