



A Monthly E-Newsletter

Vol 05 Issue 8  
August 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	81,741	3.43%	▲
NSE NIFTY50	24,951	3.92%	▲
NASDAQ Composite	17,599	-0.75%	▼
NIKKEI 225	39,102	-1.22%	▼

### Currency

USD/INR	83.72	-0.44%	▼
Euro/INR	90.57	-1.43%	▼
GBP/INR	107.63	-2.14%	▼
JPY/INR	0.56	-7.64%	▼

Note: The month-on-month movement as on July 31, 2024 is represented in percentages  
Source: NSE.com, BSE.com, NASDAQ.com, NIKKEI.com, Investing.com



# DIRECT TAX

## Judicial Rulings

### Procedural errors should not lead to denial of genuine claims

The assessee had revised the FTC claim at a higher value for AY 2013-14 and 2014-15, following a modified return under Section 92CD(1) based on an APA. The Tribunal emphasized that procedural errors should not prevent eligible FTC claims and directed the AO to grant the FTC as claimed, citing the precedent of FTC allowances for subsequent years.

*Ericsson India Global Services Pvt Ltd (Delhi ITAT)*

### Altering nature of transaction is erroneous when tax duly deducted

The Tribunal dismissed the Revenue's appeal, ruling that the AO incorrectly reclassified a share purchase transaction as an asset purchase. The assessee, a non-resident conglomerate headquartered in Japan, had duly deducted and deposited TDS at 10% plus surcharge on the share purchase from non-resident shareholders for AY 2016-17. The Tribunal held that the AO exceeded his jurisdiction by altering the nature of the transaction and confirmed that the assessee was not in default under the TDS provisions.

*Toshiba Corporation (Delhi ITAT)*

### IT enabled services do not qualify as FIS under India-US DTAA

The Tribunal determined that the receipts from providing IT enabled/application services do not qualify as FIS under the India-

US DTAA. Further, relying on jurisdictional High Court rulings and the Master Inter-Company Services Agreement, held that the services provided did not meet the 'make available' clause, as the assessee did not transfer technical knowledge independently usable by its Indian associated enterprise. It upheld the claim of the assessee that the fees were mere reimbursements on a cost-to-cost basis.

*Invesco Holding Company (US) Inc. (Delhi ITAT)*

### ESOP discount allowable as genuine expense

The Tribunal ruled that discounts on ESOPs are deductible under Section 37(1), following Karnataka High Court ruling in the case of M/s Biocon Ltd and earlier

**Procedural errors should not lead to denial of genuine claims**

**Altering nature of transaction is erroneous when tax duly deducted**

**ESOP discount allowable as genuine expense**

Tribunal judgments. It was held that discount on ESOPs is an ascertained liability rather than a contingent one, as the expenditure was reflected in the Annual Report and properly accounted for.

*Axis Bank Ltd (Delhi ITAT)*



# INDIRECT TAX

## Circulars / Notifications / Press Releases

### Exemption from filing Annual return

The registered persons whose aggregate turnover in the FY 2023-24 is upto INR 20 million are exempted from filing annual return for said FY.

*Notification No. 14/2024-Central Tax dated July 10, 2024*

### Rate of TCS on e-commerce operators reduced

The rate of TCS required to be collected by e-commerce operators has been reduced from 1% to 0.5%.

*Notification No. 15/2024-Central Tax dated July 10, 2024*

### Various amendments made in GST Rules

Following key amendments have been made vide Central Goods and Services Tax (Amendment) Rules, 2024:

- i. Aadhar authentication made compulsory for registration.
- ii. Form GSTR-1A has been introduced to allow amendments in the data furnished in GSTR-1, before filing GSTR-3B for the impugned tax period.
- iii. Method of distribution of ITC by an Input Service Distributor specified.
- iv. Value of supply of service of providing corporate guarantee to any banking company on behalf of recipient located in India, shall be 1% of the amount of guarantee offered per annum or actual consideration, whichever is higher. Further, where the recipient is eligible for full ITC, the value declared in the invoice

shall be deemed to be the value of supply of service.

- v. Where the taxpayer instead of making payment of demand created in the electronic liability ledger through GST PMT-01, makes said payment through DRC-03, he should file an application under Form DRC-03A electronically on the GST portal, so that the amount paid can be credited in the electronic liability ledger for set off.

*Notification No. 12/2024-Central Tax dated July 10, 2024*

### Applicability of GST on specified services

Following key clarifications have been issued in respect of levy of GST on specified services:

- i. Statutory collection made by RERA are exempt from levy of GST.
- ii. GST liability on the reinsurance of specified exempted general and life insurance schemes has been regularized for the period from July 01, 2017 to January 24, 2018 on 'as is where is' basis.
- iii. The supply of accommodation services having value of supply less than or equal to INR 20,000 per person per month has been exempted, provided that the accommodation service is supplied for a minimum continuous period of ninety days. The GST liability on said services has been regularized on 'as is where is' basis for the period from July 01, 2017 to July 14, 2024.

*Circular No. 228/22/2024-GST dated July 15, 2024*

**Exemption from filing Annual return provided based on aggregate turnover**

**Various amendments made in GST Rules**

**Advance Ruling has limited applicability**

## Judicial Rulings

### Non-existing entity

Proceedings initiated by GST authorities against company dissolved under Insolvency and Bankruptcy code, 2016 are without jurisdiction, as the said company is non-existing.

*M/s Hitachi Nest Control Systems Pvt Ltd (Karnataka High Court)*

### Applicability of Advance Rulings

Advance Ruling rendered in a particular State cannot be made applicable automatically to taxpayer of other State. It shall be binding on that taxpayer only for whom said ruling has been passed.

*M/s Sarkar Diesel (Calcutta High Court)*



# CORPORATE & ALLIED LAWS

## Circulars / Notifications

### Removal of limits on remittance amount in Form A2

RBI has taken a significant step towards enhancing the ease of doing business by removing the limits on the amount of overseas remittance that can be made through the online submission of Form A2. This means that customers can now make unlimited remittances online, subject to conditions as laid down in Section 10(5) of the Foreign Exchange Management Act 1999..

*RBI/2024-25/46 A.P. (DIR Series) Circular No. 12 dated July 03, 2024*

### SEBI (Alternative Investment Funds) (Third Amendment) Regulations, 2024

SEBI has issued the Securities and Exchange Board of India (Alternative Investment Funds) (Third Amendment) Regulations, 2024, amending the existing regulations for AIFs. The amendment introduces a new category called "migrated venture capital fund" for funds previously registered under the Venture Capital Funds Regulations, 1996. It provides guidelines for the registration, operation, and reporting requirements for these migrated funds. Key changes include new definitions, eligibility criteria, private placement restrictions, and investment conditions. The regulations also address the procedures for fund registration and the prohibition on public solicitations for subscriptions. These amendments are effective from the date of their publication in the Official Gazette.

*SEBI Circular No. SEBI/LAD-NRO/GN/2024/194 dated July 11, 2024*

### Updation of personal details of Director

An individual Director can now update his personal email address and mobile number anytime during the financial year by submitting e-form DIR-3 KYC on payment of statutory fee.

*MCA Notification dated July 16, 2024*

### Clarification on MSME Form-1 filing by specified companies

Only those companies with pending payments to micro or small enterprises for more than 45 days from date of acceptance or deemed acceptance of goods or services will have to furnish the information in the new MSME Form-1. This will include information on the number and amount of such payments pending for over 45 days, with reasons.

*MCA Notification dated July 15, 2024*

### Directions issued for treatment of wilful and large defaulters

Detailed directions have been issued by RBI to lenders which include identification and classification of wilful defaulters through a

### New guidelines for online submission of Form A2 for overseas remittances

### Regulations for AIFs further amended

### Directions issued for treatment of wilful and large defaulters

transparent mechanism, review of accounts for identification of defaulter, specific measures against wilful defaulters, including initiating criminal proceedings and penal measures, strict internal audit mechanism and identification of root causes by the audit committee, reporting of directors, wilful and large defaulters.

*RBI/DoR/2024-25/122 DoR.FIN.REC. No.31/20.16.003/2024-25 dated July 30,2024*



## CFO WATCH

### RBI issues revised master directions on Fraud Risk Management

### SEBI issues amendments in mutual funds regulations

### ICAI issues implementation guide on updates in Forms 3CD and 3CEB

#### RBI issues revised master directions on Fraud Risk Management

Master Directions on Fraud Risk Management issued by RBI for Banks, NBFCs, and Cooperative Banks, consolidate 36 previous guidelines. It includes mandatory Board-approved Fraud Risk Management Policies, natural justice principles before fraud classification, a special Board committee for fraud cases, robust early warning frameworks, strengthened fraud detection, and timely reporting to authorities. Additionally, it emphasizes audits, data analytics, and staff accountability.

#### SEBI issues amendments in mutual funds regulations

Revised norms focus on investments by passively managed mutual fund schemes in the group companies of their sponsors. The new rules mandate that no mutual fund scheme should make any investment in the listed securities of group companies of the sponsor in excess of 25% of the net assets of the scheme, except for investments by equity-oriented ETFs and index funds.

#### ICAI issues implementation guide on updates in Forms 3CD and 3CEB

Key changes include reporting expenditures for compounding offenses, benefits or perquisites violating laws under clause 21(a), and amounts payable to micro or small enterprises under clause 26. Minor updates have been made to include all relevant sections introduced by the Finance Act 2023 in the reporting requirements of Form 3CD.

## MERGERS & ACQUISITIONS

### Budget 2024: Abolition of Angel Tax

In her Budget speech on July 23rd, Union Finance Minister Nirmala Sitharaman announced the scrapping of the Angel Tax for all classes of investors, effective April 1, 2025.

#### The Journey of Angel Tax

- **2012:** Angel tax, introduced vide the Finance Act 201, was levied at a hefty rate of 30.9% on investments received by a startup greater than its fair market value to prevent the generation and circulation of unaccounted money through share premiums received from resident investors in a private limited company. As a result, startups faced numerous challenges. Since startups often operate with limited cash flow, a tax burden on top of it made it difficult to sustain and manage their operations. With the additional tax burden, investors were less inclined to invest. Additionally, since its introduction, the term has been subject to numerous debatable interpretations and hence various amendments have been made several times.
- **2016:** The Government relaxed norms, exempting startups registered with the Department for Promotion of Industry and Internal Trade to support emerging startups.
- **2017:** Due to conflicting opinions on valuation, rules were established wherein value shall be adopted based on the higher value calculated as per prescribed Rules, or the value supported to the satisfaction of the Assessing Officer.
- **2018:** Exemption to startups under Section 56 of the Income Tax Act was given in cases where the total investment including funding from angel investors did not exceed Rs 100 million.
- **2019:** Further exemptions were provided, and procedures were simplified to reduce the compliance burden on startups.
- **2023:** Provisions were extended to money received by an Indian company from non-resident shareholders. Further, new valuation methodologies were prescribed resulting in numerous complications.
- **2024:** Proposed to abolish the angel tax provisions to provide relief to the Indian start-up ecosystem and encouraging a fresh inflow of capital in the economy.

The abolition of Angel Tax is a significant relief for startups. It is expected to strengthen the Indian startup ecosystem, boost entrepreneurship, and foster innovation. It will not only stimulate increased startup funding from both domestic and international sources but would also be a step ahead in making India a \$5 trillion economy.

# IN THE NEWS

## Asia-Pacific Tax Seminar in Singapore

July 10, 2024

Sunil Arora, ASA, discussed international tax developments in India, while other speakers covered the latest tax updates for the Asia-Pacific region at the inaugural Baker Tilly Asia-Pacific Tax Seminar in Singapore. The event gathered partners and directors from across the Asia-Pacific network of Baker Tilly.

## Webinar: Budget 2024 - Key Impacts and Strategic Analysis

July 25, 2024

ASA hosted a webinar to analyse the Union Budget 2024, where Sunil Arora, Sundeep Gupta, and Vinay K S provided insights on Direct and Indirect tax announcements and key fiscal policies affecting businesses in India. The session offered valuable analysis of tax changes, insights into fiscal policies, and strategic recommendations for businesses.

## Webinar: Doing Business in India and France

July 3, 2024

ASA, jointly with the World Trade Centre in India and France, organized a webinar where Himanshu Srivastava and Léa Parmentier shared insights on entry strategies, setups, taxation,

and opportunities in key sectors for French companies looking to enter the Indian market.

Key speakers included *H.E. Mr Thierry Berthelot, Hon'ble Consul of France in Bengaluru*, *Mr Eric Fajole, Director Business France India*, *Mrs Marie-Christine Oghly, VP of CCI Paris Ile de France & Vice chair of ICC/World Chambers and FCEM World President*, *Mr Franck MÉLÉDO, Associate Baker Tilly France*, *Mrs Mélinda SERT, Tax Lawyer Baker Tilly France*

## 401(k) Audits – Procedures, Internal Controls & Compliance

July 15, 2024

Author: *Sundeep Gupta & S Sushmitha, ASA*

A 401(k) audit is an examination of a company's retirement benefit plan to ensure compliance with the regulations set forth by the Employee Retirement Income Security Act. These audits are typically conducted by an independent auditor to verify the accuracy and completeness of the financial statements of the plan, as well as to ensure that the plan is being administered in accordance with the legal regulations and the constitution documents laying out the framework and details of the plan.

## Carbon Accounting: Navigating the Green Terrain with Precision

July 29, 2024

Author: *Manoj Sharma, Chhavi Goyal & Simran Nayal, ASA*

Our world today faces an existential crisis: Climate Change. With every ticking second, greenhouse gases continue to accumulate in the atmosphere, leading to catastrophic environmental consequences. Amidst this turmoil, carbon accounting has emerged as an indispensable tool, guiding organizations toward sustainable practices. This article delves into the heart of carbon accounting, its indispensability, and its relationship with ESG frameworks, CCMA, and the IFRS S1 and S2. Moreover, it explores what we, as human beings, can contribute to alleviate this global concern



# GLOSSARY

**DTAA**

Double Taxation  
Avoidance  
Agreement

**FTS**

Fee for Technical  
Services

**FY**

Financial Year

**GST**

Goods & Services  
Tax

**ITC**

Input Tax Credit

**ICDR**

Issue of Capital  
and Disclosure  
Requirements

**ITC**

Input Tax Credit

**MCA**

Ministry of  
Corporate Affairs

**MSME**

Micro, Small,  
Medium Enterprise

**PE**

Private Equity

**RBI**

Reserve Bank of  
India

**RCM**

Reverse Charge  
Mechanism

**SCN**

Show Cause  
Notice

**SEBI**

Securities and  
Exchange Board  
of India

**VAT**

Value Add Tax

**VC**

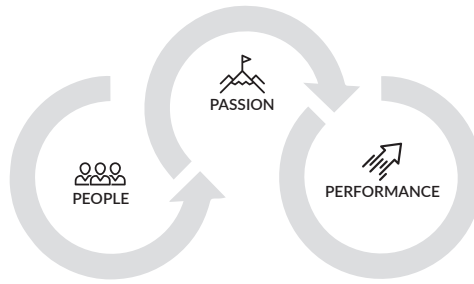
Venture Capital

We value your feedback.

Please send us  
your comments and  
suggestions at  
[editorial@asa.in](mailto:editorial@asa.in)

# ABOUT US

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



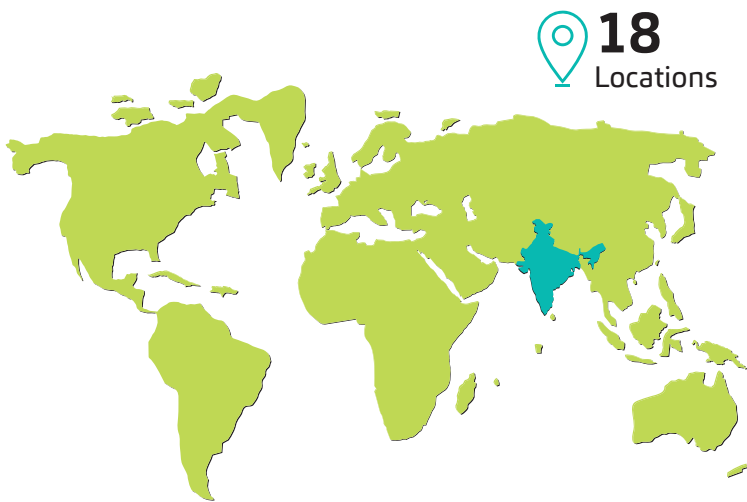
## SERVICES

- 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