

A Monthly E-Newsletter

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September 2024

The Bottom Line

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KEY METRICS

Indices

BSE SENSEX	82,366	0.76%	▲
NSE NIFTY50	25,236	1.14%	▲
NASDAQ Composite	17,714	0.65%	▲
NIKKEI 225	38,648	-1.16%	▼

Currency

USD/INR	83.87	-0.18%	▼
Euro/INR	92.66	-2.31%	▼
GBP/INR	110.17	-2.36%	▼
JPY/INR	0.57	-2.83%	▼

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



DIRECT TAX

Circulars/ Notifications

Higher TDS / TCS rates not applicable where PAN not linked with Aadhaar in the event of death

To address the issues faced by the taxpayers due to the demise of deductees or collectees before linkage of PAN and Aadhaar could be completed, CBDT has issued a clarification that the higher rates of TDS/TCS shall not apply for transactions up to March 31, 2024, if the PAN and Aadhaar were not linked by the deadline and the deductee or collectee expired before May 31, 2024.

Circular No. 01/2024-25 dated August 5, 2024

Judicial Rulings

Simultaneous deductions from capital gains under section 54 and 54F allowable

The Assessee had sold two properties, including a residential property, and purchased a new residential property. He had claimed deduction under section 54 as well as section 54F. The Tribunal held that there is no bar in law to claim these deductions simultaneously. It also rejected the revenue's claim that new property was purchased before the stipulated one-year period prior to the sale holding that the covenants in the sale deed executed and registered are conclusive in the absence of any evidence to the contrary.

Ramdas Sitaram Patil (Pune ITAT)

Where prosecution not related to tax arrears, Assessee can opt for VSV

The Apex Court dismissed an SLP against the order of High Court that the provisions of the VSV Act would not apply if prosecution had been instituted against taxpayer in connection with a tax arrear relating to an assessment year on or before date of filing declaration. However, where prosecution had been instituted under section 276C(2), it could not be said to be in respect of tax arrear and hence, declaration of assessee would have to be decided in conformity with provisions of VSV Act.

Pragati Pre Fab India Pvt Ltd (Supreme Court)

Reopening requires proper justification alongwith undisclosed facts

The Assessing Officer initiated reassessment basis alleged discrepancies in client codes used by the Assessee's stock broker suggesting that income from share trading had escaped assessment. The Tribunal, quashing a reassessment notice, held that a) client code modifications are a part of broker's operations; b) the precondition for invoking Section 147 after four years i.e., failure to disclose all material facts was not met as the Assessee had provided all necessary trade details and contract notes during the original assessment, and no

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material facts were withheld; c) citing a similar case, the Tribunal emphasized that the Revenue must specify undisclosed facts to justify reassessment, to prevent arbitrary reopening.

Aashish Niranjan Shah (Bombay High Court)



INDIRECT TAX

Circulars / Notifications / Press Releases

Effective dates notified for various provisions, including ISD

The new regulations regarding ISD mechanism for distribution of input tax credit shall be mandatory with effect from April 01, 2025. Further, penalty provisions for failure to register certain machines used in the manufacture of goods as per special procedure, shall be applicable from October 01, 2024.

Notification No. 16/2024-Central Tax dated August 06, 2024

RCM liability / ITC statement introduced on portal

To assist taxpayers in correctly reporting RCM transactions, a new statement called "RCM liability / ITC statement" has been introduced on the GST portal. This statement will be applicable from the tax period August 2024 onwards for monthly filers and from the quarter July-September 2024 period for quarterly filers.

Advisory dated August 23, 2024

Furnishing bank account details

As per CGST Rules, a taxpayer is required to furnish details of a valid bank account within a period of 30 days from the date of grant of registration, or before filing FORM GSTR-1, whichever is earlier. Now, from September 01, 2024, this Rule is being enforced. Therefore, for the tax period August 2024 onwards, the taxpayer will not be able furnish GSTR-1 without furnishing the details of a valid bank account in their registration details on GST Portal.

Advisory dated August 23, 2024

Judicial Rulings

Penalty cannot travel beyond scope of SCN

Adhering to SCN is not merely a procedural formality, but a mandatory requirement. No action can be taken beyond the scope of SCN. Hence, penalty imposed on a ground not mentioned in SCN was set aside.

Associated Switch Gears and Projects Ltd (Allahabad High Court)

Tax paid to supplier not remitted to government

Purchasing dealer could not be punished for act of selling dealer, in case selling dealer has failed to deposit the tax collected by it.

National Plasto Moulding (Gauhati High Court)

Rectification in returns

Where GST returns are filed within timelines provided under law, the taxpayer should be permitted to make rectification of the errors in such returns, if there was no loss to revenue.

Aberdare Technologies Pvt Ltd (Bombay High Court)



Effective dates notified for various provisions, including ISD

RCM liability / ITC statement introduced on portal

Penalty cannot travel beyond scope of SCN

Conditions for availment of ITC

Taxpayer cannot be given benefit of ITC unless amount of tax collected from the taxpayer has actually been paid to the government.

Tirupati Balaji Traders (Kerala High Court)

Applicability of interest

Where a taxpayer availed excess ITC but later reversed it through Form DRC-03 without utilizing the same, interest liability shall not arise.

Utpal Das (Calcutta High Court)



CORPORATE & ALLIED LAWS

Circulars / Notifications

Simplification in FDI and Overseas Investment rules

The Foreign Exchange Management (Non-debt Instruments) Rules, 2019 have been amended, simplifying the process for cross-border share swaps and provide for the issue or transfer of Indian company equity instruments in exchange for foreign company equity instruments. Further, it includes clarifications on the definition of 'control' in line with the Companies Act, 2013, and updates to the definition of 'startup company' to match existing government notifications. The changes also facilitate FDI in White Label ATMs, to boost financial inclusion nationwide. The revisions further address the treatment of investments by entities owned by Overseas Citizens of India and streamline rules related to equity capital swaps.

Ministry of Finance (Department of Economic Affairs) Notification No. S.O. 3492(E) dated August 16, 2024

Ind AS rules amended

MCA has introduced significant changes in the Companies (Indian Accounting Standards) Amendment Rules, 2024. The key aspects are:

- Modifications to Ind AS 101: Guidelines have been updated for first-time adoption of Ind AS, aiming to simplify and clarify reporting requirements for companies transitioning to these standards
- Revisions to Ind AS 103: Changes pertain to business combinations, refining the principles for accounting for acquisitions and mergers to ensure more accurate financial reporting
- Replacing Ind AS 104 with 117: Ind AS 104 dealing with insurance contracts has been removed and replaced with Ind AS 117, signaling a shift in the regulatory framework for insurance accounting.

MCA Notification No. G.S.R. 492(E) dated August 12, 2024

Trading and Settlement of Sovereign Green Bonds

Towards facilitating wider non-resident participation in sovereign green bonds, Government has permitted eligible foreign investors in IFSC in India to also invest in these bonds. The new scheme for investment and trading in such bonds by the specified eligible foreign investors have been notified.

RBI/2024-25/72 CO.FMRD.FMIA. No.S242/11-01-051/2024-2025 dated August 29, 2024

Guidelines for borrowing by AIFs as per amended SEBI regulations and maximum permissible limit for extension of tenure by LVFs

Securities and Exchange Board of India (Alternative Investment Funds) (Fourth Amendment) Regulations, 2024 provides fresh guidelines for borrowing. Per the guidelines, Category I and II AIFs shall not borrow funds directly or indirectly or engage in any leverage for the purpose of making investments or otherwise, except for

- borrowing funds to meet temporary funding requirements
- day to day operational requirements for not more than 30 days on not more than 4 occasions in a year

Simplification in FDI and Overseas Investment rules

Trading and Settlement of Sovereign Green Bonds

Ind AS rules amended

Further, to facilitate ease of doing business, Category I and II AIFs can also borrow for the purpose of meeting temporary shortfall in amount called from investors for making investments in investee companies, subject to fulfilment of specified additional conditions

Moreover, a LVF can extend its tenure upto 5 years subject to the approval of two-thirds of the unit holders by value of their investment in the LVF and extension in tenure of any existing LVF scheme shall be subject to specified conditions.

SEBI/HO/AFD/AFD-POD-1/P/ CIR/2024/112 dated August 19, 2024



CFO WATCH

Regulations applicable to NBFCs and HFCs harmonized

Regulatory framework on wilful and large defaulters introduced

Regulations on non-convertible securities updated

Regulations applicable to NBFCs and HFCs harmonized

Key changes made by RBI for HFCs include raising liquid asset requirements from 13 to 15%, reducing deposit ceiling to 1.5 times of net owned funds and reducing deposit repayment period to 60 months. HFCs must also ensure full asset cover, obtain annual credit ratings, and follow new rules for risk hedging and accounting. NBFCs must notify deposit maturity details 14 days in advance and can now make premature payments under specific conditions. The said amendments are effective January 01, 2025.

Regulatory framework on wilful and large defaulters introduced

RBI introduced updated master directions on the treatment of wilful and large defaulters, effective October 28, 2024. Guidelines outline procedures for classifying borrowers and guarantors as wilful defaulters having outstanding amounts of INR 25 lakh or more, or large defaulters with amounts of INR 1 crore or more. It also includes a review process by committees, with penalties such as a ban on additional credit and new ventures for classified defaulters. Statutory auditors face accountability for negligence, and regulated entities must report default details to credit information companies.

Regulations on non-convertible securities updated

SEBI amended the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021. The revisions include setting the record date 15 days before payment or corporate actions to standardize practices. Debenture trustees must now issue due diligence certificates at listing and follow new standardized formats. Additionally, issuers can include a web link and QR code for audited financial statements in their offer documents. These changes take effect on July 10, 2024.

MERGERS & ACQUISITIONS

SME IPOs in 2024: Record Subscriptions Amid Bubble Fears

In 2024, SMEs in India have increasingly turned to the capital markets to raise funds with a significant surge in the SME IPOs. By the end of August, there were 173 SME IPOs raising a total of Rs 5,965 crore, surpassing the 183 IPOs that raised Rs 4,686 crore in all of 2023.

Among the top 20 most subscribed SME IPOs, 16 were launched in 2024, with two being subscribed over 1,000 times viz. HOAC Foods India (subscribed 1,963 times) and Magenta Lifecare (subscribed 1,003 times).

In terms of listing gains, 2024 dominated the top four out of five slots with Winsol Engineers, Medicamen Organics, GP Eco Solutions India, and Maxposure Ltd delivering returns of over 300% on their listing day. Kay Cee Energy & Infra being the fifth in the list with a 343% oversubscription was closed in January 2024.

However, irrespective of the varying business models and fundamentals, many SME IPOs have seen overwhelming subscriptions and significant listing gains. For instance, Resourceful Automobile, with just two outlets and eight employees stood out when it was oversubscribed by nearly 419 times. This trend has sparked significant debate among market experts, who are questioning the sustainability of such enthusiasm and warn of a potential speculative bubble.

Concerns have been raised by market participants and SEBI about artificial demand and inflated valuations, driven more by the lure of quick profits than by careful assessment. The 2024 IPO boom is exciting, but it's essential to maintain a long-term perspective and avoid getting caught up in the hype.



Launch of Doing Business in India Guide in Brisbane & Sydney

August 12, 2024

ASA, in collaboration with Indo-Australia Chamber of Commerce, launched the “Doing Business in India Guide” authored by ASA, at the Queensland Parliament and Sydney Opera House in Australia. During the event, Ajay Sethi highlighted India’s crucial role as an investment destination in education, mining, defence, and renewables. The event fostered global connections and collaboration.

ASA at IABCA Awards Canberra

August 14, 2024

Ajay Sethi had the opportunity of meeting Mr. Anthony Albanese, Prime Minister of Australia, and Mr. Gopal Bagley, High Commissioner of India to Australia, during the IABCA Awards in Canberra. These events further strengthened the ties between Australia and India, opening new avenues for collaboration and innovation.

Meeting with Consulate General of India in Perth

August 9, 2024

Himanshu Srivastava had a productive meeting with Mr Amarjeet Singh Takhi, Consulate General of India in Perth. The meeting facilitated impactful discussions on strengthening bilateral trade relations, exploring new business opportunities,



and fostering collaborations between Indian and Australian enterprises.

Flying High, Taxing Higher

August 28, 2024

Author: Sundeep Gupta & Lakshay Chhabra, ASA

In the intricate tapestry of modern economies, few industries hold as significant a role as the aviation sector. Beyond mere transportation of goods and passengers, airlines serve as vital conduits for global commerce, tourism, and connectivity. From facilitating trade to fostering cultural exchange, the importance of the airline sector reverberates across multiple facets of economic activity, contributing to growth, development, and prosperity. The Indian aviation market is estimated to be the world’s third largest.

With the myriads of activities being undertaken by this sector, the impact of taxes, both direct

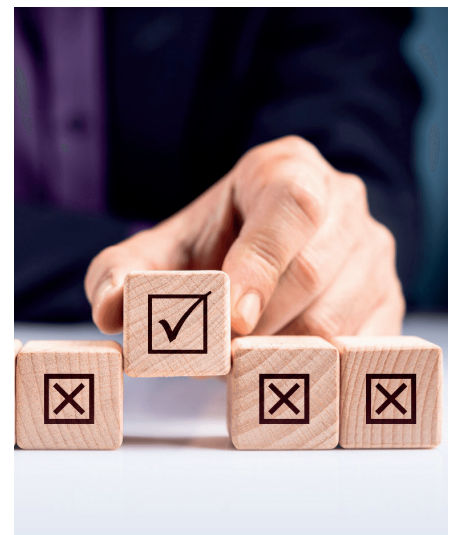
and indirect, attain significance. This article attempts to capture the intricacies of GST on the various activities and transactions involving the aviation sector.

Corporate Restructuring

August 30, 2024

Author: Himanshu Srivastava & Shyam Ramakrishnan, ASA

The landscape of corporate restructuring has evolved dramatically, especially in the wake of unprecedented global challenges like the COVID-19 pandemic and rising political tensions amongst nations. These challenges have fundamentally altered business models, disrupted supply chains, and transformed the way companies operate. The ability to harness opportunities during difficult times has become a crucial factor for businesses aiming to not just survive but thrive.



GLOSSARY

AIF

Alternative Investment Fund

ISD

Input Service Distributor

PAN

Permanent Account Number

TDS

Tax Deducted at Source

CBDT

Central Board of Direct Taxes

ITAT

Income Tax Appellate Tribunal

RBI

Reserve Bank of India

VSV

Direct Tax Vivad Se Vishwas Act

FDI

Foreign Direct Investment

ITC

Input Tax Credit

RCM

Reverse Charge Mechanism

GST

Goods & Services Tax

LVF

Large Value Fund for Accredited Investors

SCN

Show Cause Notice

HFC

Housing Finance Company

MCA

Ministry of Corporate Affairs

SEBI

Securities and Exchange Board of India

IFSC

International Financial Services Centre

NBFC

Non-banking Financial Company

SLP

Special Leave Petition

Ind AS

Indian Accounting Standards

PAN

Permanent Account Number

SME

Small and Medium Enterprise

IPO

Initial Public Offer

RBI

Reserve Bank of India

TCS

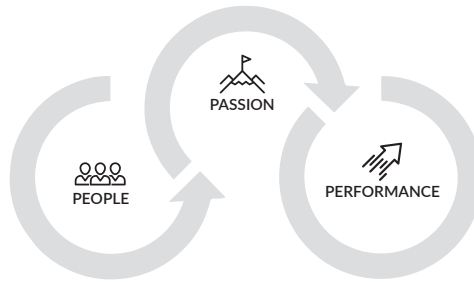
Tax Collected at Source

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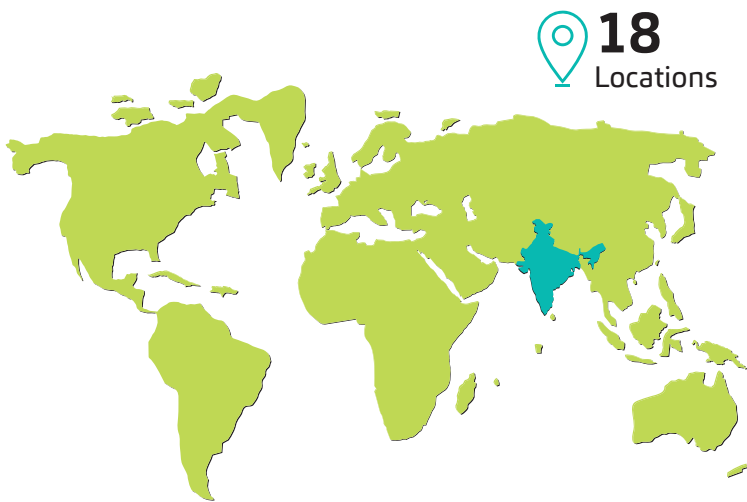
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- Accounting and Business Support
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658
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141
Territories



\$5.2bn
Turnover



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