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A Monthly E-Newsletter

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# The Bottom Line

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## KEY METRICS

### Indices

BSE SENSEX	79,803	0.52%	▲
NSE NIFTY50	24,131	-0.31%	▼
NASDAQ Composite	19,218	6.21%	▲
NIKKEI 225	38,208	-2.23%	▼

### Currency

USD/INR	84.56	-2.23%	▼
Euro/INR	89.42	2.26%	▲
GBP/INR	107.70	0.66%	▲
JPY/INR	0.56	-2.03%	▼



Note: The month-on-month movement as on November 29, 2024 is represented in percentages  
Source: NSE.com, BSE.com, NASDAQ.com, NIKKEI.com, Investing.com

# DIRECT TAX

## Circulars/ Notifications

### Deadline for filing ITR extended for specified assessees

The deadline to file ITR for assessees required to submit Form 3CEB for reporting of international and specified domestic transactions have been extended from November 30 to December 15, 2024.

*Circular no. 18/2024-25 dated November 30, 2024*

## Judicial Rulings

### Interconnectivity charges outside the ambit of FTS, not taxable under India-Oman DTAA

The Tribunal had earlier held interconnectivity charges are chargeable under business profits. However, since the assessee did not have PE it could not be taxed under Article 7 of the DTAA. Further the assessing officer had treated charges as Royalty while Dispute Resolution Panel treated them as FTS. It was therefore held that since the charges do not qualify as Royalty or FTS, they cannot be deemed to be charged under residual clause of India-Oman DTAA and they should be further examined to check whether they come under the purview of any other Article relating to the treaty.

*Oman Telecommunications Company SAOG (Delhi ITAT)*

### Managerial services outside ambit of FTS, not taxable in India under India-UK DTAA

The Tribunal upheld the appellate ruling that management services

income does not constitute FTS under Article 13 of the India-UK Tax Treaty by stating that the services rendered were managerial in nature and did not meet the "make available" criterion for technical knowledge or skills. Consequently, the income was deemed non-taxable in India due to the absence of a PE.

*ESAB Holdings Limited (Mumbai ITAT)*

### Relinquishment of rights in any intangible asset shall be regarded as a capital receipt

The High Court upheld the Tribunal's ruling that the amount received by the Assessee under a co-marketing agreement with another entity shall constitute a capital receipt. The Court determined that the payment was compensation for the transfer of capital assets, including patents and technical know-how and the surrender of enduring rights, thus impairing the Assessee's profit-making capacity. The ruling

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emphasized that agreements causing a permanent loss of income-generating potential shall be treated as capital receipts, reaffirming the principle of distinguishing between revenue and capital receipts based on the nature of the rights surrendered.

*Saitofi Healthcare (Telangana High Court)*





# INDIRECT TAX

## Circulars / Notifications / Press Releases

### Time limit for reporting e-invoice on the IRP

From 1st April 2025, taxpayers with an aggregate annual turnover of INR 100 million and above will need to report e-Invoices on IRP portal within 30 days. This applies to all document types (Invoices/Credit Notes/Debit Notes) for which an IRN is to be generated.

*Advisory dated November 05, 2024*

### Amnesty Scheme under GST

As per the Amnesty Scheme introduced under GST, the taxpayers are required to file an application in FORM GST SPL-01 or FORM GST SPL-02, respectively on the common portal within three months from notified date 31.03.2025. Said forms are under development and will be made available on the Common Portal tentatively from the first week of January 2025.

*Advisory dated November 08, 2024*

### IMS Supplier View

To facilitate the taxpayers, the Supplier View of IMS has also been made available where the action taken by their recipients on the records/invoices reported in GSTR-1/1A/IFF, will be visible to the suppliers in 'Supplier View' functionality.

*Advisory dated November 13, 2024*

## Judicial Rulings

### Eligibility of ITC on purchase of land

If as per the functionality test, the building qualifies the definition of

plant, the ITC may be allowed for purchase of land and construction of building.

*Compucom Software Ltd  
(Rajasthan High Court)*

### Mistake while filing annual return

ITC cannot be denied merely due to an inadvertent mistake in the annual return. The department was directed to permit assessee to resubmit annual return for FY 2017-18 after correction of the mistakes.

*Ancheril Agencies (Kerala High Court)*

### Clubbing of years in Notice

Clubbing/consolidation of multiple assessment years in single SCN under Section 74 of CGST Act is impermissible. Separate SCN must be issued for each assessment year.

*Chimney Hills Education Society  
(Karnataka High Court)*

### Presentation error while filing GSTR-3B return

An eligible ITC cannot be disallowed solely due to a presentation error in GSTR-3B,

**Functionality test to determine ITC eligibility on land**

**SCN cannot be clubbed for multiple years**

**No disallowance of ITC merely due to presentation error**

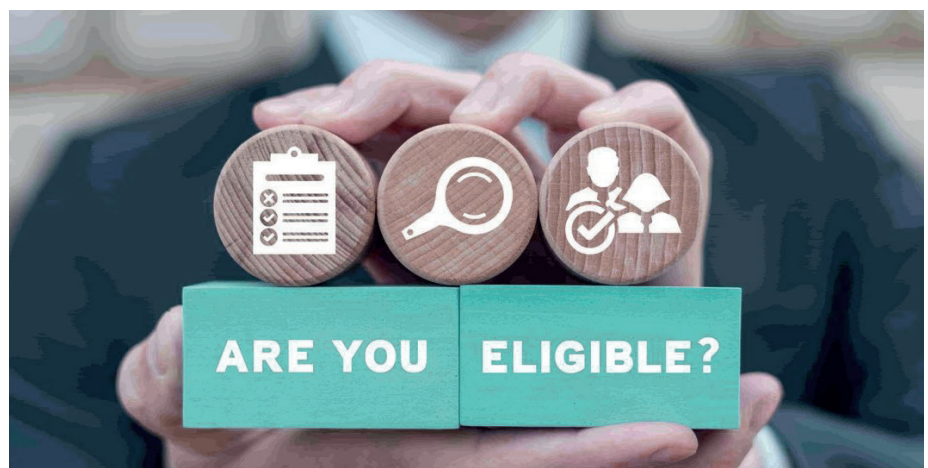
where the ITC was mistakenly reported under the 'RCM' column instead of the 'All other ITC' column

*Revathi Industrial Enterprises (Madras High Court)*

### Parallel proceedings

Where parallel proceedings are initiated by State and Central GST authorities, authority which first initiated and completed assessment for particular year shall have jurisdiction, precluding other authority from conducting assessment for same period.

*S. G. Plastic Industries (Allahabad High Court)*



# CORPORATE & ALLIED LAWS

## Circulars / Notifications

### Inclusion of Sovereign Green Bonds as specified securities under FAR

Sovereign green bonds of 10-year tenor have been included in the list of specified categories of Central Government securities under FAR and are open for investment by non-resident investors without any restriction, apart from domestic investors.

*RBI/2024-25/88 FMRD.FMD.  
No.06/14.01.006/2024-25 dated  
November 7, 2024*

### Reclassification of FPI to FDI

Foreign Exchange Management (Non-debt Instruments) Rules, 2019 mandate that investment made by FPI along with its investor group must be less than 10% of total paid-up equity capital on a fully diluted basis. In case of breach of the threshold, FPIs must either divest or reclassify such holdings as FDI. RBI has now come out with an operational framework for such reclassification. The key features of the framework are as follows:

- Any sector in which FDI is prohibited shall not be permitted for reclassification
- Necessary approvals from government and will have to be obtained including concurrence of Indian investee company
- FPI shall declare its intent to reclassify existing foreign portfolio investment into FDI, along with necessary approvals
- Reporting by the FPI of the entire investment within the timelines specified under the Foreign Exchange Management Regulations
- FPI to transfer equity instruments of Indian company from demat

account maintained for holding foreign portfolio investments to demat account maintained for holding FDI.

*RBI/2024-25/90 A.P. (DIR Series) Circular  
No. 19 dated November 11, 2024*

### SEBI withdraws issuance of No objection certificate for release of deposit with stock exchange

To facilitate ease of doing business, the issuer company no longer need to deposit 1% of the issue size available for subscription to the public, with the stock exchange. SEBI regulations have been amended to dispense with the issuance of no objection certificate to release 1% of issue amount. For period prior to the amendment, stock exchanges have to frame standard operating procedures for the release of 1% security deposit.

*SEBI/HO/CFD/CFD-PoD-2/P/  
CIR/2024/0161 dated November 21, 2024*

### SEBI amends Buy-Back of Securities Regulations

SEBI has issued the Securities and Exchange Board of India (Buy-Back of Securities) (Second Amendment) Regulations, 2024. The key amendments are:

- In the event that any promoter / promoter group has communicated its intention to not participate in the buy-back, the shareholding of such promoter / promoter group will not be considered for computing the entitlement ratio.
- Issuance of securities of the company, until the expiry of the buy-back period, are permitted if such issuance is towards discharge of a subsisting obligation of the company in the nature of warrants, stock

### Inclusion of Sovereign Green Bonds as specified securities under FAR

### Reclassification of FPI to FDI

### SEBI amends Buy-Back of Securities Regulations

option schemes, sweat equity or conversion of preference shares / debentures into equity shares. However, the details and potential impact of such issuance of such subsisting obligations are required to be disclosed in the public announcement.

- It is now mandatory to disclose the entitlement ratio for the small and general shareholders and the web-link to the website of the Registrar (for checking the entitlement), on the cover page of the letter of offer.

*SEBI Notification No. SEBI/LAD-NRO/  
GN/2024/210 dated November 20, 2024*



# CFO WATCH

## IRDAI issues insurance fraud monitoring framework

### Revised criteria for classification of non-company entities and applicability of Accounting Standards

#### IRDAI issues insurance fraud monitoring framework to strengthen sector resilience

IRDAI has introduced the Insurance Fraud Monitoring Framework Guidelines, 2024, to strengthen fraud prevention in the insurance sector. The guidelines aim to identify, assess, and mitigate fraud risks across insurers, distribution channels, policyholders, and external entities. Key components include the establishment of a Fraud Risk Governance Framework, the creation of Fraud Monitoring Committees, and the implementation of technology-driven fraud detection systems. Insurers must also address cybersecurity risks and provide training to stakeholders. The framework supports transparency, enhances fraud detection, and fosters a resilient and trustworthy insurance ecosystem.

#### Revised criteria for classification of non-company entities

ICAI has updated the classification criteria for non-company entities regarding the applicability of Accounting Standards, effective April 1, 2024. Non-company entities are now classified as MSME entities or Large entities. MSMEs, defined by financial thresholds like turnover under ₹250 crore and borrowings below ₹50 crore, enjoy certain exemptions from specific accounting standards. Large entities must fully comply with all standards. MSMEs must disclose any exemptions used, and if they transition out of MSME status, they must follow applicable standards without restating prior period figures.

#### FASB issues new ASU requiring enhanced expense disclosures for public companies

FASB issues an ASU to enhance financial reporting. Public companies will now be required to disclose additional information about certain expenses in their financial statement notes during interim and annual reporting periods. The ASU mandates disclosures including purchases of inventory, employee compensation, depreciation, intangible asset amortization, and oil-and-gas-related expenses. It also requires the inclusion of certain amounts already disclosed under current GAAP and qualitative descriptions of remaining unquantified expenses. The amendments will be effective for annual periods starting after December 15, 2026, and interim periods after December 15, 2027, with early adoption permitted.

# MERGERS & ACQUISITIONS

## Private Equity-Venture Capital Investments Hit a Six-Year Low in 2024

PE-VC funding in 2024 is on track to hit its lowest level since 2019, with investments from January to October totalling \$25.6 billion. This figure falls short of 2023's \$32.8 billion, and analysts predict the final numbers for 2024 will remain underwhelming as the year draws to a close. Monthly investments peaked at \$3.5 billion in January, May, and June, while other months saw lower ranges of \$1.6 billion to \$2.7 billion. Key factors driving this decline include a significant reduction in mega deals worth over \$100 million and geopolitical uncertainties.

The decline is stark compared to 2021, when PE-VC investments soared to \$64.9 billion, marking a peak in activity. Since then, the sector has experienced a steady downturn over three consecutive years.

The current scenario underscores the challenges faced by the PE-VC ecosystem, with broader market conditions and global trends compounding the slowdown. The ongoing uncertainty in global markets suggests that a rebound may take time, leaving investors cautious about future commitments.





# IN THE NEWS

## **APAC Regional Advisory Council, Baker Tilly International**

November 19, 2024

Ajay Sethi, Managing Partner of Baker Tilly ASA India, has been appointed to the APAC Regional Advisory Council of Baker Tilly International. With his expertise, vision, and dedication, Ajay is set to bring valuable insights that will contribute to shaping the future of Baker Tilly and the industry at large.

## **Great Indian CFO Leaders' Summit & Awards 2024**

November 22, 2024

Akhilesh Thakur of Baker Tilly ASA India was part of the panel at the Great Indian CFO Leaders' Summit & Awards 2024, discussing innovations in financial management and how CFOs can leverage technology, manage risks and integrate ESG for long-term success.

Bhushan Sharma of Baker Tilly ASA India facilitated an interactive roundtable on stakeholder engagement and communication, highlighting how effective communication helps finance teams mitigate risks.

## **Webinar: Decoding CFOs Dilemma: Sailing Smoothly through M&A**

November 15, 2024

Baker Tilly ASA India recently hosted a webinar addressing critical M&A challenges, including when



a CFO should decline a deal, key due diligence considerations, managing entrepreneurial teams, avoiding overpayment, and ensuring successful integration. A panel of experts also shared insights on navigating high-valuation markets and effectively communicating value to stakeholders. The session provided valuable knowledge for professionals involved in M&A or those seeking to deepen their understanding of the CFO's role in the process.

## **Establishing A Joint Venture in India**

November 19, 2024

Authors: Himanshu Srivastava & Shyam Ramakrishnan, ASA  
India's dynamic economy and

large market size make it an attractive destination for foreign investors looking to form JVs. India continues to be one of the world's fastest-growing major economies, with a GDP growth rate that is projected to remain robust in 2024. This growth is driven by increased domestic consumption, expanding infrastructure, and digital transformation. With a population of over 1.4 billion, India offers a vast and diverse consumer market, making it an attractive destination for all businesses. The growth of India's middle class is driving demand for a wide range of products and services, from financial services to luxury goods. This presents significant opportunities for JVs looking to introduce new products or expand their existing market share.

# GLOSSARY

## **ASU**

Accounting Standards Update

## **CGST**

Central Goods & Services Tax

## **DTAA**

Double Taxation Avoidance Agreement

## **FAR**

Fully Accessible Route

## **FASB**

Financial Accounting Standards Board

## **FDI**

Foreign Direct Investment

## **FPI**

Foreign Portfolio Investment

## **FTS**

Fee for Technical Services

## **FY**

Financial Year

## **GAAP**

Generally Accepted Accounting Principle

## **GST**

Goods & Services Tax

## **ICAI**

Institute of Chartered Accountants of India

## **IMS**

Invoice Management System

## **IRDAI**

Insurance Regulatory and Development Authority of India

## **IRP**

Invoice Registration Portal

## **ITAT**

Income Tax Appellate Tribunal

## **ITC**

Input Tax Credit

## **ITR**

Income Tax Return

## **JV**

Joint Venture

## **M&A**

Merger & Acquisition

## **MSME**

Micro, Small, and Medium Enterprise

## **PE**

Permanent Establishment

## **PE-VC**

Private Equity and Venture Capital

## **RBI**

Reserve Bank of India

## **RCM**

Reverse Charge Mechanism

## **SCN**

Show Cause Notice

## **SEBI**

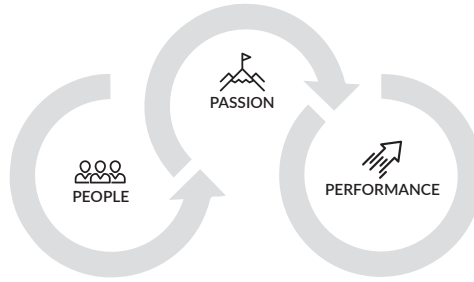
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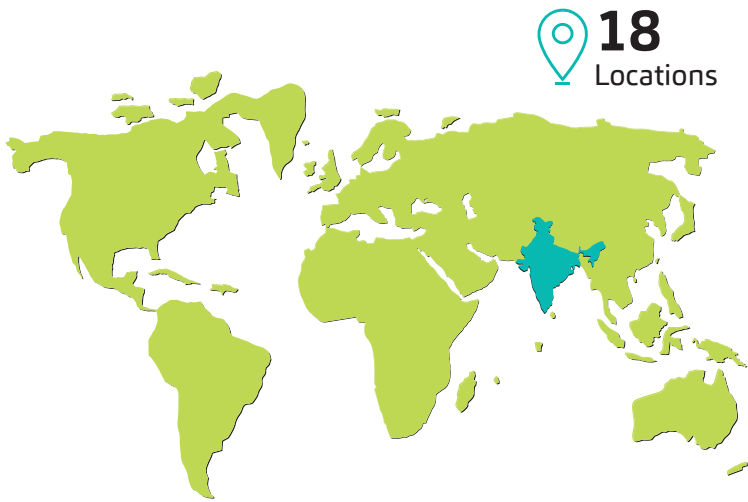
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