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01
Direct Tax

Reimbursement to parent company in respect of ESOPs issued to the Indian Co.'s employees is a deductible expense; profit margin foregone cannot be held as expenditure incurred for creating an intangible viz. brand value

Flipkart India Private Limited vs The Assistant Commissioner of Income Tax

ITA No.1141/Bang/2022 & ITA No.1115/Bang/2022

Issues	Outcome
Disallowance towards ESOP expenses u/s 37 and addition on account of valuation of marketing intangibles	In Favour of Assessee

Background

In a recent verdict, Bangalore Tribunal ('Hon'ble ITAT'), examined the allowance of ESOP expenditure, wherein ESOPs of overseas parent company were issued, as a deduction under section 37 of The Income Tax Act, 1961 (the 'Act') and valuation of marketing intangibles of Flipkart India Pvt ltd ('Assessee'). Hon'ble ITAT concluded the matter in favour of the Assessee by allowing reimbursement of ESOP expenditure as a deduction and dismissed the Revenue's alleged valuation of marketing intangibles.

Brief Facts and Contentions

- The Assessee is engaged in the business of wholesale distribution of books, mobile, media, etc. and provides engineering & outsourcing solutions for e-commerce business. The Assessee filed the return of income for AY 2017-18 declaring a loss of ₹139.61 crores.

- During the year, Assessee had issued the shares of its parent company to its employees under ESOP scheme. The difference between the fair market value of the shares of the parent company on the date of issue of shares and the price at which those shares were issued by the Assessee to its employees, was reimbursed by the Assessee to its parent company. This sum so reimbursed was claimed as ESOP expenditure.
- The Assessing officer ('AO') disallowed deduction of ESOP expenditure by stating that the Assessee is liable to deduct tax under Section 195 of the Act on reimbursement made to the Holding Company towards ESOP expenditure.
- Further, Assessee had incurred a cash loss of ₹160.93 crores by making sales at lower than cost. In this regard, AO stated that the strategy of selling goods at lower than cost price is to establish customer goodwill and brand value and accordingly should be regarded as cost incurred for creation of intangibles. Since this is a capital expenditure this should reduce the loss declared.

ITAT's Judgement

- Hon'ble ITAT followed its judgement in the case of Novo Nordisk India P. Ltd. v. DCIT, [2014] and held that expenditure on account of ESOP is revenue expenditure and this expenditure has been incurred by the Assessee for its own business and not for its parent company. Thereby the ESOP expenditure must be allowed to the Assessee.
- Further, in respect of the allegation of creation of intangible, it was held that the expenditure is incurred when accrual of liability or actual outflow in the form of payment is made. One cannot proceed on presumption that the profit foregone is expenditure incurred and further such expenditure was for acquiring intangible assets like brand, goodwill etc. Further the AO cannot disregard the profit or loss as disclosed in the profit and loss account, unless he invokes the provisions of Sec. 145(3) of the Act.

"

Nangia's Take

This is another favorable judgement by Bangalore ITAT on the issue of ESOP cross charge payments made to Holding Company. Reliance has also been placed on the judgement of Karnataka High Court in the case of Biocon Ltd. On the second issue viz. creation of intangible by virtue of profit foregone, the ITAT has clearly demarcated the meaning of profit foregone and expenditure incurred.

Law requires AO to follow DRP directions in complete conformity; Final Assessment Order quashed for contradicting DRP's finding on Permanent Establishment ('PE')

AZZ WSI B.V. v. Deputy Commissioner of Income Tax
IT Appeal Nos. 7833 of 2019 (Mumbai Tribunal)

Issues	Outcome
Final Assessment order not in conformity with the DRP's direction	In Favour of Assessee

Background

Delhi ITAT observed that AO completed the assessment by determining the total income as directed by the DRP, but did not follow the basis and reasoning of determination of income as directed by the DRP. Consequently, ITAT held that once the determination of total income itself is illegal due to violation of provisions of section 144C of the Act, the ultimate determination of total income in the final assessment order also becomes bad in law.

Brief Facts and Contentions

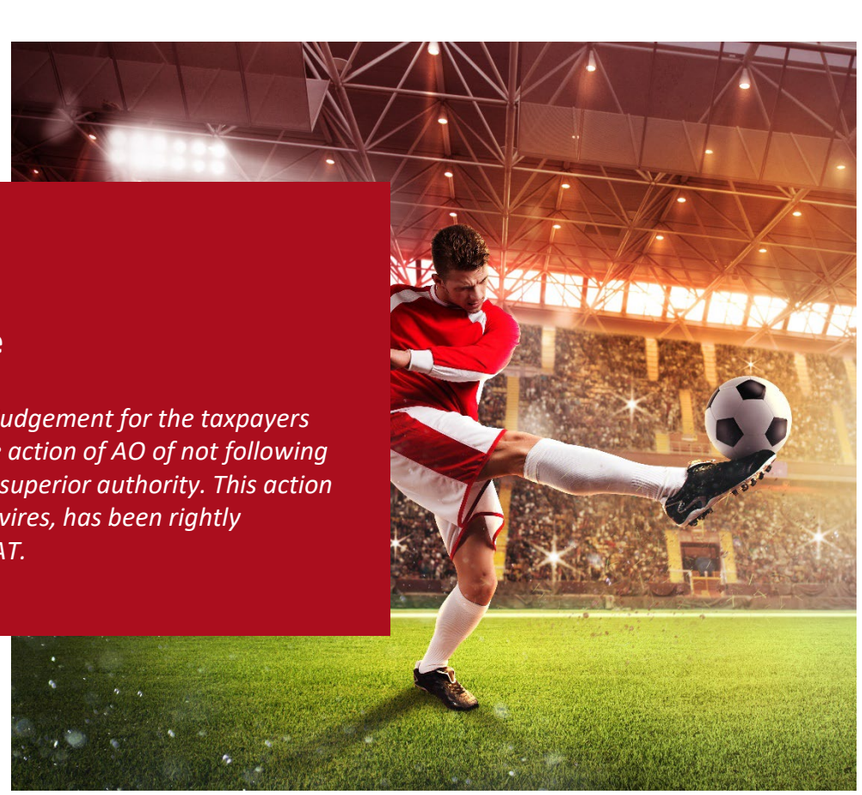
- The Assessee is a company incorporated in Netherlands and is a tax resident of Netherlands. The Assessee offers innovative maintenance through automatic weld repair solutions.
- The Assessee company entered into a contract with Reliance Industries Limited ('RIL') in India for the purpose of repair of 4 coke drums in the refinery of RIL
- The Assessee did not offer the service receipts to tax claiming services are not liable to be considered as 'Fees for Technical Services' (FTS) as per the Article 12(5)(b) of the India-Netherlands Double Taxation Avoidance Agreement (DTAA) owing to the fact that the same does not satisfy the condition of 'make available' clause.
- The AO in the Draft Assessment order held that the Assessee had a fixed place PE in India as the Assessee had full access to the office site which was in close proximity to the job site and RIL was to provide such office along with lodging and boarding facility to the employees of Assessee. Hence the AO held that the entire contract value is to be considered as business receipts for the purpose of determining the business income in India.
- On filing of objections by Assessee, the DRP held that Assessee had an Agency PE in India instead of Fixed place PE. Further, the DRP upheld the treatment of receipt from offshore supply as business income in India.
- In addition to above, DRP directed the AO to treat 7.13% of the total receipts from India as taxable income instead of 30% as proposed by the AO.

- However, while passing the final assessment order, AO again held that Assessee had a fixed place PE but computed the total income in accordance with DRP's direction by attributing 7.13% of total receipts as income and further allocating 75% thereof to Assessee's PE in India

The Assessee then approached ITAT against the Final Assessment order passed by the AO.

ITAT's Judgement

- Post DRP directions, AO had again pursued his initial findings that Assessee had a fixed place PE which was in complete contradiction to the directions issued by the DRP.
- Further, ITAT relied on the Co-ordinate Bench decision of **Delhi Tribunal** in the case of **Olympus Medical Systems (P) Ltd vs ACIT [194 ITD 676 (Delhi Trib.)]** wherein the Final Assessment order was quashed as the same was not in the conformity with the provisions of section 144C of the Act.
- As a result, the ITAT held that once the basis of determination of total income itself is illegal due to violation of provisions of section 144C(10) and 144C(13) of the Act, the ultimate determination of total income in the final assessment order also becomes bad in law and quashed the Final Assessment Order.



Nangia's Take

This is a welcome judgement for the taxpayers as it condemns the action of AO of not following the directions of a superior authority. This action of AO, being ultra-vires, has been rightly annulled by the ITAT.

Revision of assessment based on Ind-AS disclosure, not justifiable; Real income shall be considered for taxation.

Shriram Properties Limited Vs The Principal Commissioner of Income Tax

ITA No.: 431/Chny/2022

Issues	Outcome
Assessment selected for revision proceedings by PCIT on the ground that AO had made inadequate investigation	In Favour of Assessee

Background

In a recent verdict, Income Tax Appellate Tribunal, Chennai Bench ('Hon'ble ITAT') examined the notional entries passed by M/S Shriram Properties Limited (The 'Assessee' or 'Company') on adoption of IND-AS. Hon'ble ITAT concluded that only real income can be brought to tax.

Brief Facts and Contentions

- The Assessee adopted IND - AS for the first time in AY 2017-18 and accordingly restated the liabilities and assets as on 1st April 2015 and restated the financial information for the financial year 2015-16 as well.
- This exercise was carried out by passing notional entries. Some of these entries were routed through profit and loss account but they were negated while computing total income for the purpose of Income Tax.
- The case was selected for scrutiny under section 143(3) of the Income Tax Act, 1961 ('the Act') and an addition of 37.5 lakhs was made to the total income.
- Subsequently, the Principle Commissioner of Income Tax ('PCIT') selected the case for revisionary proceedings under section 263 of the Act on ground that Assessing Officer ('AO') failed to make adequate enquiries with respect to guarantee commission, fair value gain and interest income on financial instruments, gain on extinguishment of financial liability and receipt of securities premium.

ITAT's Judgement

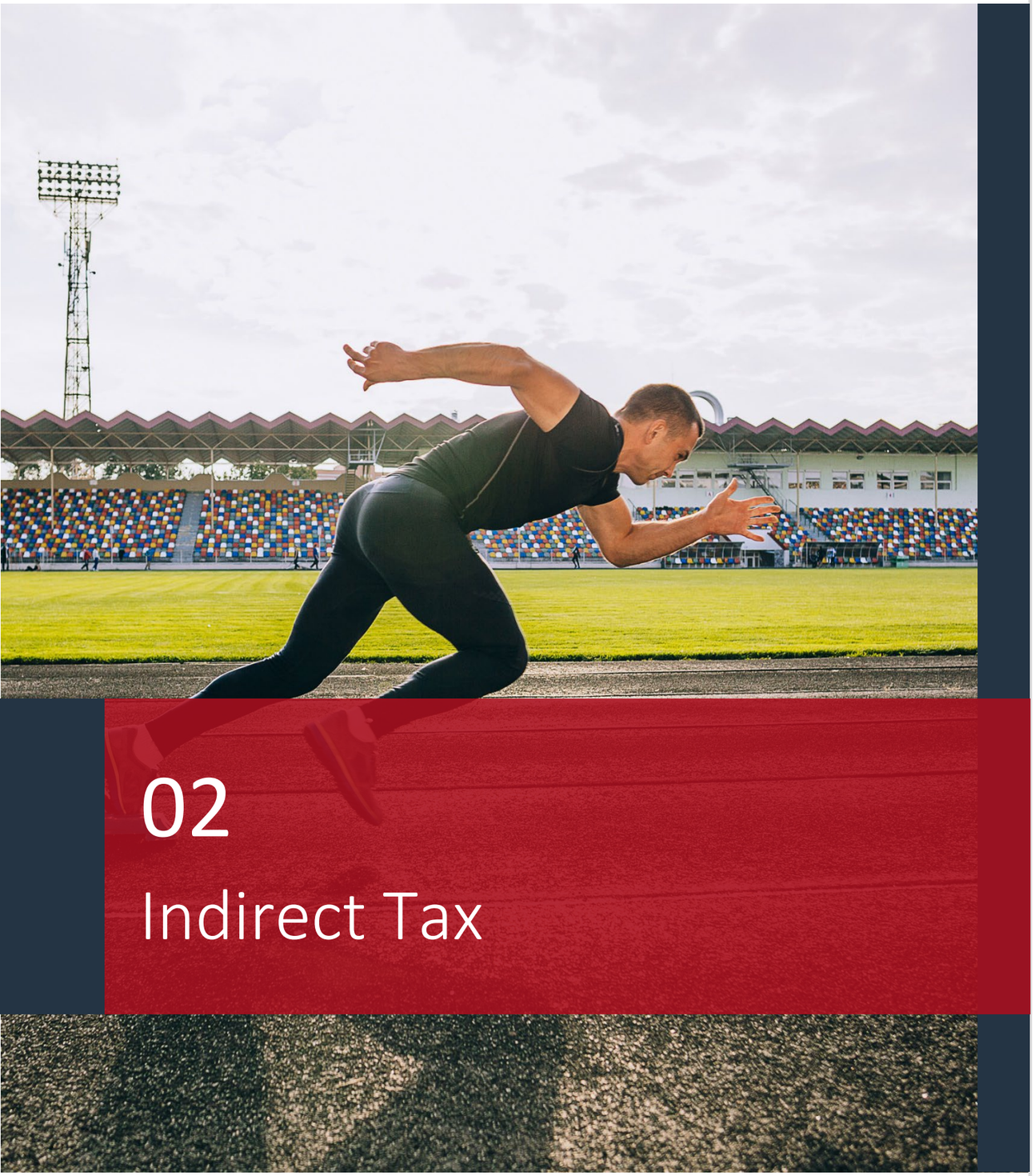
- Hon'ble ITAT stated that the Assessee has passed notional entries in the books in respect of guarantee commission income arising out of guarantee given to banks. This entry was an Ind-AS adjustment and was done for better representation of financial statements but no amount has actually been received as there is a contractual obligation for not charging commission. Accordingly, no addition to income shall be made in this regard.

- Further regarding fair value gain on financial instruments, Hon'ble ITAT states that Assessee revalued optionally convertible debentures and optionally convertible preference shares in certain joint ventures and subsidiaries (collectively known as financial instruments) at fair value as at the balance sheet date, and any gain/loss arising from such restatement is credited/debited to P&L. The same was reduced from the total income in the statement of total income being a notional entry and there is no actual accrual of income and Assessee had offered capital gains arising from partial redemption in subsequent AY when the same was realized.
- Further on interest income on redeemable financial instruments, it was held that preference shares in one of the subsidiaries was revalued and resultant gain was credited to P&L, such amount by any stretch cannot be considered as income.
- Further with respect to gain on extinguishment of financial liability, it was held that Assessee's equity shares including securities premium, has been considered as compound financial instruments and have accordingly been segregated between liability and equity components based on their fair value measurement. However, pursuant to change in shareholders' agreement, whereby their preferential rights with a guaranteed return have been removed, the liability option of the instrument has been derecognized and equity instrument including security premium has been recorded at the fair value. The difference between the fair value of the equity and carrying amount of the liability has been treated as gain on extinguishment of financial liability and credited to P&L account, and clearly, the entry passed in the books of the accounts is only a notional entry.
- Further, ITAT relied on the Co-ordinate Bench decision of **Delhi Tribunal** in the case of **Olympus Medical Systems (P) Ltd vs ACIT [194 ITD 676 (Delhi Trib.)]** wherein the Final Assessment order was quashed as the same was not in the conformity with the provisions of section 144C of the Act.
- As a result, the ITAT held that once the basis of determination of total income itself is illegal due to violation of provisions of section 144C(10) and 144C(13) of the Act, the ultimate determination of total income in the final assessment order also becomes bad in law and quashed the Final Assessment Order.
- Further on increase in the security premium, ITAT notes that there is no fresh issue of equity shares but merely book entries for the purposes of IND-AS.
- Further Hon'ble ITAT stated that the assessment cannot be selected under section 263 of the Act as the assessment is neither erroneous nor is prejudicial to the interest of the Revenue.

"

Nangia's Take

ITAT has relied on the judgement of Hon'ble Supreme Court in case of CIT vs Bokaro Steel Ltd which laid down the principle that only real income can be brought to tax. Notional gain/ expenditure as required under IND-AS standards would not affect the computation of income tax.



02
Indirect Tax

Supreme Court held that sales between subsidiaries of foreign-entity are not related party transactions

Brief Facts

- Bilag Industries Private Limited ('Appellant') is engaged in manufacturing of pesticides, insecticides etc. It sold goods to Aventis CropScience (India) Ltd. ('ACS') who sold the same to end customers;
- AgrEvo SA held 51% of the share capital in Appellant and 100% shares in ACS & accordingly both Appellant and ACS were subsidiaries of AgrEvo SA during the impugned period;
- Revenue rejected the price charged by Appellant from ACS for sale of goods. Revenue contended that the assessable value should be the price ultimately charged by ACS from the end customers and argued that the sale by Appellant to ACS was to a related person. CESTAT passed the order in favour of Revenue;
- Aggrieved by the order, Appellant filed an appeal before Supreme Court.

Observation

- Hon'ble Supreme Court referred the definition of 'related persons' & relied on the following rulings:
  - Union of India Vs. Atic Industries Ltd;
  - Union of India Vs. Hind Lamp Ltd;
  - Commissioner of Central Excise, Hyderabad Vs. M/s. Detergents India Limited;
  - Commissioner of Central Excise, Aurangabad Vs. Goodyear South Asia Tyres Pvt. Ltd; and
  - Commissioner of Central Excise, Chandigarh Vs. Kwality Ice Cream Co.
- Hon'ble Supreme Court observed that even though AgrEvo SA holds shareholding in both entities, it does not demonstrate that Appellant has any business interest in the affairs of ACS or vice-versa.
- Hon'ble Supreme Court further observed that there is no finding that the price charged by Appellant from ACS was lower than the market price. Accordingly, revenue's decision in rejecting the value at which the goods were sold by Appellant to ACS, by treating related party transaction, was erroneous.

Decision

Impugned order is set aside & appeal allowed.

[Bilag Industries Private Limited [TS-121-SC-2023-EXC], Dated 24 March 2023]

Delhi High Court allows IGST refund, Considering E&Y not an 'intermediary' in providing professional consultancy services to its overseas entities.

Brief Facts

- M/s. Ernst & Young Limited ('E&Y Limited') has filed petition against the order (‘impugned order’) passed by the Appellate Authority for the denial of its refund applications for Input tax credit in respect of export of services rendered to its overseas entities (period from December 2017 to March 2020) on the premise that the petitioner is an ‘intermediary’ and thus, the place of services is located in India, where the petitioner’s place of business is located and not where recipient of services is located;
- E&Y Limited has entered into service agreements for providing professional consultancy service to various entities of Ernst & Young group on arm’s length basis. The invoices raised described the nature of services for the invoiced amount as “Professional Fees for Services and had received the invoiced consideration from EY Entities, in foreign convertible exchange;
- The Adjudicating Authority proceeded on the basis that the Services provided by the petitioner were intermediary services and since the petitioner was located in India, the place of supply of the Services was not the location of the recipients of the Services but the petitioner’s location in India;
- Further, Appellate Authority upheld the decision of the Adjudicating Authority that the services rendered by the petitioner were intermediary services. The Appellate Authority reasoned that the services provided were at the instance of foreign based entities but the same were not provided in their respective foreign territories. Therefore, it could be construed that the subject services were provided in India.

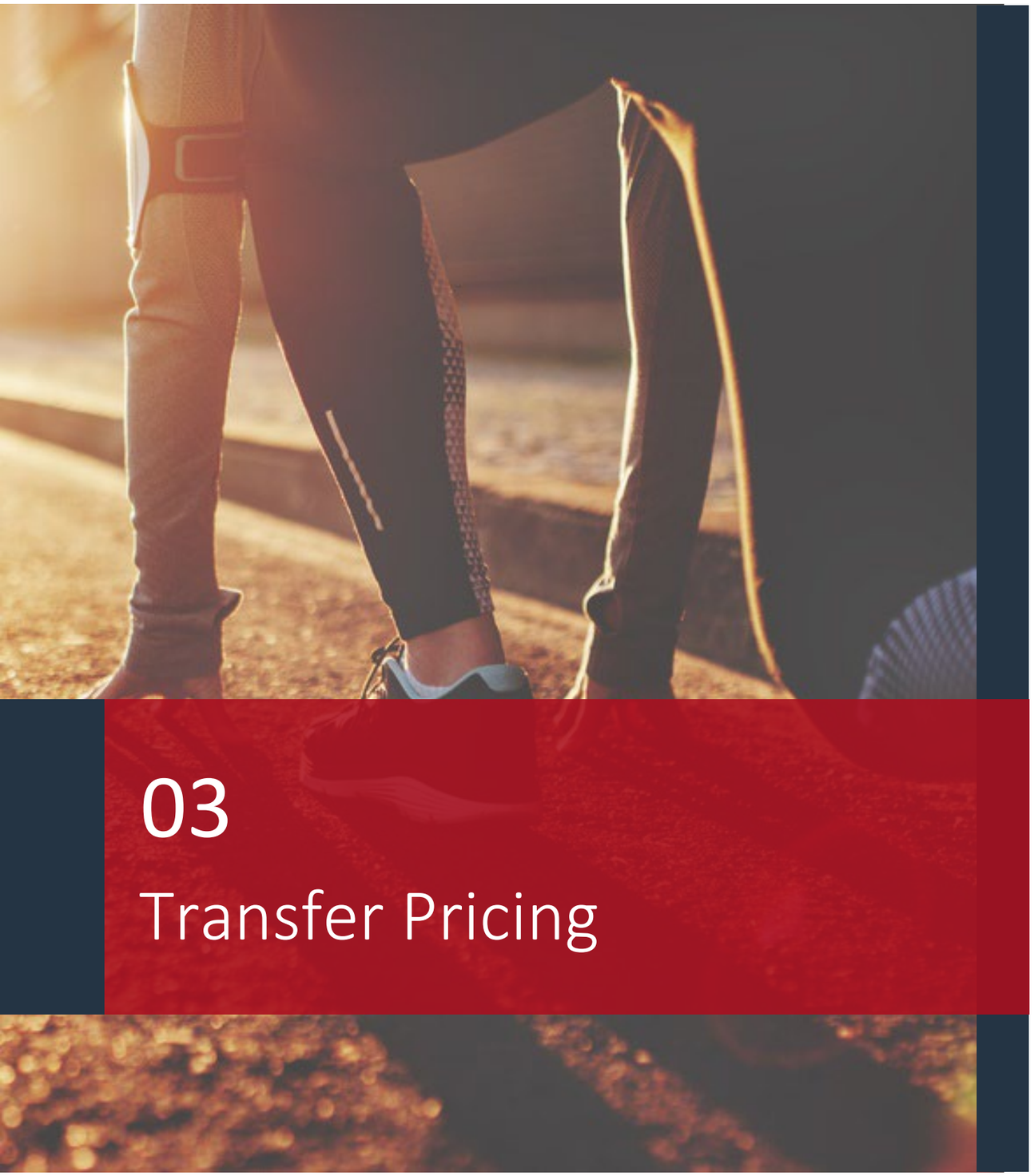
Observation

- The High Court mentioned that the Adjudicating Authority had also accepted that the petitioner has provided the Services. The Adjudicating Authority had reasoned that since the petitioner provides services on behalf of E&Y Overseas Entities (petitioner’s head office), it was an intermediary. This reasoning is fundamentally flawed. It reasoned that since the professional services were rendered on behalf of its head office, the same were not on the petitioner’s ‘own account’, therefore, the petitioner is an intermediary;
- The High Court pointed that prior to the GST regime, services rendered by the petitioner to EY Entities to be considered as ‘export of services’. The petitioner prevailed before the concerned service tax authorities in establishing that the professional services rendered by it cannot be considered as services as an ‘intermediary’;
- It is also material to note that the petitioner’s application for refund of ITC for the period after March 2020 has also been accepted by the Adjudicating Authority. Thus, the petitioner has been denied ITC only for the period from December 2017 to March 2020; it has been allowed CENVAT credit for the period covered under the service tax regime as well as ITC for the period after March 2020;
- High Court held the Services rendered by the petitioner are not intermediary services as it does not fall under the purview of Section 13(8) of the IGST Act. The place of supply of the Services rendered by the petitioner to overseas entities is required to be determined on basis of the location of the recipient of the services. Since the recipient of the Services is outside India, the professional services rendered by the petitioner would fall within the scope of definition of ‘export of services’ as defined under Section 2(6) of the IGST Act.

Decision

- The High Court ruled that there is no dispute that the recipient of Services i.e., EY Entities are located outside India. Thus, indisputably, the Services provided by the petitioner would fall within the scope of the definition of the term ‘export of service’ under Section 2(6) of the IGST Act;
- The Adjudicating Authority is directed to process the petitioner’s refund application as expeditiously as possible.

[W .P.(C) 8600/2022]



03
Transfer Pricing

ITAT: Upholds Customs data to be more reliable under CUP; Relies on precedents and OECD commentary

Outcome: In favour of revenue

Facts of the case

- Louis Dreyfus Company Pvt. Ltd. (“the taxpayer”) is engaged in the business of import and export of agricultural commodities (“subject transaction”). In the current ruling, the taxpayer has prepared Transfer Pricing (“TP”) study report by using Comparable uncontrolled price (“CUP”) method as the most appropriate method (“MAM”) for benchmarking the subject transaction.
- However, to benchmark the transaction relating to import and export of agri-commodities by using CUP method, the taxpayer relied upon the rates/quotes offered by authenticated independent market report /3rd party broker data. Further, the taxpayer submitted that the market rate relied upon by the taxpayer should be undisputedly treated as CUP for benchmarking the assessee’s international transaction.
- During the assessment proceedings, the TPO and DRP have relied on the data available with custom authorities for the purpose of benchmarking the subject transaction
- While there is no dispute between the taxpayer and the TPO/DRP regarding the application of CUP as the MAM, however the TPO/DRP adopted customs data as CUP to benchmark the subject transaction.
- The TPO/DRP held that the broker data used by the taxpayer are unreliable and unauthenticated and the quotations provided by the third party brokers are not a real time transaction but only a projection and the private third party report relied by the taxpayer provided an average price which is not an appropriate CUP.

ITAT's Ruling

- Delhi ITAT dismisses the taxpayer's appeal against the use of rates offered by independent market report/3rd party broker data under CUP method for benchmarking the transactions relating to import and export of agricultural commodities.
- The ITAT held that the customs data serves as a more reliable CUP as it compares value of identical or similar goods imported/exported at or around the same time.
- ITAT further observed that the customs data at the port of shipment/delivery would better reflect the price of the commodity as it is inclusive of interest, insurance, freight costs, customs clearance charges etc. Such data would be a more reliable indicator of the uncontrolled arm's length transaction value (inclusive of the relevant costs) of identical or similar transactions between independent parties
- Further, the ITAT enunciates that the OECD commentary on TP guidelines also allows for adoption of a price-setting data which is different from the stated contract date. ITAT observes that the customs data at the port of shipment/ delivery would better reflect a more reliable indicator of the uncontrolled arm's length transaction value.
- Thus, in the light of the foregoing discussions, the ITAT rejected the objections raised by the taxpayer against the use of customs data under CUP.

"

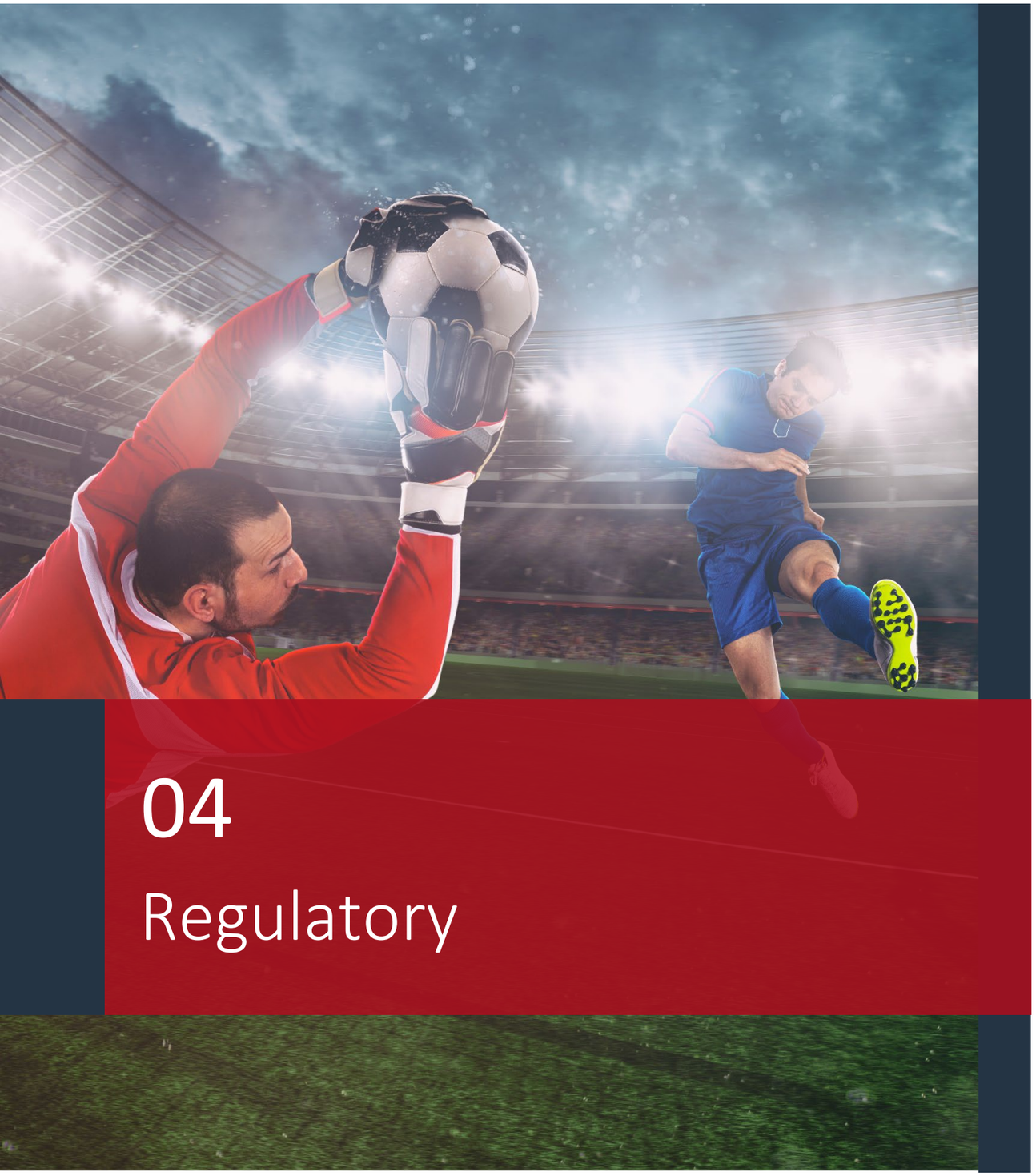
Nangia's Take

In recent years, there has been an increase in scrutiny by tax authorities in India on transactions related to import and export of goods, particularly in the context of transfer pricing regulations. In this context, tax authorities have been placing greater reliance on customs data for application of CUP method for benchmarking purposes, i.e. to determine whether the prices charged by related parties in import and export transactions are at arm's length.

CUP method requires stringent comparability and the customs data is based on scientifically based method and is inclusive of various adjustment such as interest, insurance, freight costs, storage expenses, port charges, custom clearance charges etc. which makes customs data a more reliant CUP as compared to third party/independent reports.

The instant ruling is a welcome ruling which provides more clarity to the taxpayers in respect of benchmarking of transactions pertaining to import/export of such commodities by highlighting the fact that customs data serves as a more reliable CUP vis-à-vis independent market report/3rd party broker data.

Source: Louis Dreyfus Company India Private Limited [TS-163-ITAT-2023 (DEL)-TP]



04
Regulatory

Updates under companies act, 2013 (“ACT”)

Mandatory accounting software with recording audit trail of transaction and auditors responsibility

As per the Companies (Accounts) Amendment Rules, 2021 (‘Account Rules’) notified by the Ministry of Corporate Affairs (‘MCA’) on March 24, 2021, every company that uses accounting software to maintain its books of account must use a software having the following features:

- The software should be capable of recording an audit trail of each and every transaction;
- The software should be capable of maintaining an edit log of each change made in the books of account along with the date of such changes, and
- The software should ensure that the audit trail feature cannot be disabled.

These amendments will come into effect from April 1, 2023. Accordingly, businesses using an accounting software will have to mandatorily comply with the Accounts Rules from FY 2023-24.

Further, pursuant to related amendments to the Companies (Audit and Auditor) Rules, 2014 (‘Audit Rules’), auditors are now required to provide a statement in statutory audit report (in the section: Report on Other Legal and Regulatory Requirements,) stating whether:

- All business users whose accounts are audited follow audit trail requirements including edit logs or change log) recording feature, via the accounting software.
- Assurance that audit trail characteristic was present throughout the financial year and the same has not been changed or tampered with during the year and
- Edit logs or audit trails have been maintained for duration as specified by the Audit Rules.

The entities will be required to ensure that audit trail of all accounting records can record changes to the transaction, such as when the changes were made, who made them, and what data was changed.

Companies with no woman director under lens

The Act mandates that every listed company and every public limited company with paid-up share capital of Rs. 100 crore or more, or turnover of Rs. 300 crore or more, should have at least one woman director. However, several companies, including state-owned ones, have been found to be in default and are attracting the attention of authorities. In this regard, at least 20 show-cause notices were issued to defaulting companies in the Delhi region alone in 2022.

Defaulters are liable to pay fines, which may be imposed on the company and each of the officers in default. The penalty is capped at Rs 300,000 in the case of the company and at Rs. 100,000 in the case of the defaulting officers. The number of women directors on the board of companies in India has improved since the Act mandated having one woman member on the board. However, India still has a long way to go to achieve gender equality, which is one of the sustainable development goals it has committed to achieve by 2030.

Updates under securities and exchange board of India ('SEBI')

Operational guidance - Amendment to securities and exchange board of India (buy back of securities) regulations, 2018 (buy-back regulations)

The SEBI (Buy-Back of Securities) (Amendment) Regulations, 2023 ('Amendment Regulations') were notified on February 07, 2023. The Amendment Regulations shall come into effect on or after 30th day of the date of notification of amendment in the official gazette (i.e. March 09, 2023).

As per the Amendment Regulations, the following restrictions on placement of bids, price and volume have been imposed by the SEBI post consultation with the stock exchanges for the companies undertaking buy-back through stock exchange route:

- The company shall not purchase more than 25% of the average daily trading volume (in value) of its shares or other specified securities in the ten trading days preceding the day in which such purchases are made;
- The company shall not place bids in the pre-open market, first thirty minutes and the last thirty minutes of the regular trading session; and
- The company's purchase order price should be within the range of ±1% from the last traded price.

Decisions taken in SEBI'S meeting dated 29th March, 2023

Balanced Framework for ESG Disclosures, Ratings and Investing

- SEBI to introduce BRSR (Business Responsibility and Sustainability Report) core for top 150 listed entities from FY 2023-24, to be extended to top 1000 listed entities by FY 2026-27 in a progressive manner;
- A balanced approach in ESG will be adopted across various regulations prescribed by the SEBI and consequent amendments to reflect such balanced approach shall be made;
- ESG rating providers to offer separate category of ESG rating called "core ESG Rating" based on ESG parameters prescribed under ESG core;
- Various measures to encourage ESG investing as a measure to enhance stewardship role by institutional investors have been introduced;

Amendments to SEBI (LODR) regulations

The following amendments to SEBI (LODR) Regulations have been approved

- Disclosure requirements
  - SEBI shall introduce quantitative parameters for determining 'materiality' of event/information and consequent amendments to SEBI (LODR) Regulations shall be made;
  - Stricter timelines for disclosure of material events i.e. in case of outcome of board meeting, within 30 minutes of the board meeting and for information from within the organisation, within 12 hours shall be introduced;
  - Top 100 listed entities (w.e.f October 1, 2023) will be required to clarify, deny or confirm on market rumours pertaining to their entity. The same shall be extended to top 250 listed entities (w.e.f April 1, 2024);
  - The listed entities will be required to disclose certain types of agreements binding listed entities.
- Strengthening Corporate Governance

  As a measure of enhancing corporate governance, shareholders approval be required for the following corporate actions:
  - Periodic approval for special rights granted to any shareholder;
  - Sale, lease, disposal of undertaking of listed entity, outside the scope of 'scheme of arrangement' framework.
  - Continuation of a director's appointment on the board of the company.
- Streamlining timeline for submission of first financial results by newly listed entities
  - The timeline for submission of first financial results by newly listed entities has been streamlined to overcome the challenges in immediate submission of financial results post listing and to ensure that there is no omission in submission of financial results;
- The vacancy of directors, compliance officer, CEO and CFO are to be filled within 3 months of such vacancy.

Amendments to SEBI (ICDR) regulations

The following amendments have been approved in SEBI (ICDR) Regulations:

- In case of underwriting for shortfall in demand or to cover subscription risk is opted by the issuer, the same shall be disclosed in the offer document prior to issue opening;
- Bonus issue to be made only in dematerialised form and a listed entity shall be eligible to announce bonus issue of shares, only after obtaining approval from the stock exchanges for listing and trading of all the pre - bonus securities issued by it;

Extension of "Comply or Explain" period for Large Corporates (LCs) to meet their financing needs from debt market through issuance of debt securities to the extent of 25% of their incremental borrowings in a financial year in a contiguous block of two financial years will be extended to the contiguous block of three years.

Extension of 'Comply or Explain' period for the High Value Debt Listed Entities in respect of corporate governance norms till March 31, 2024.

Simplification of disclosure requirements pertaining to the payment of interest/ coupon and redemption amount i.e. disclosure requirements under Regulation 57 of the LODR Regulations are consolidated

Updates under reserve bank of India (RBI)

Financial action task force (FATF) high risk and other monitored jurisdiction

The FATF plenary, the decision-making body of the FATF updated the list of countries having strategic deficiencies in implementing FATF standards w.r.t Anti-Money Laundering /Combating of Financing of Terrorism, *vide* document titled 'High-Risk Jurisdictions subject to a Call for Action' – February 24, 2023' and "Jurisdictions under Increased Monitoring". The following have been notified in this regard

- Addition of South Africa and Nigeria to the list of countries requiring increased monitoring;
- Removal of Cambodia and Morocco from the of list of countries requiring increased monitoring;

Reserve bank of India (RBI) permitted banks from 18 countries to trade in Indian Rupee

The Reserve Bank of India has approved 60 requests to open special rupee vostro accounts (SRVs) of correspondent banks from 18 countries. SRV accounts facilitate international trade settlement in Indian rupee.

These countries permitted to open SRVs include Botswana, Fiji, Germany, Guyana, Israel, Kenya, Malaysia, Mauritius, Myanmar, New Zealand, Oman, Russia, Seychelles, Singapore, Sri Lanka, Tanzania, Uganda, and UK.

Updates under production linked incentive scheme ('PLI')

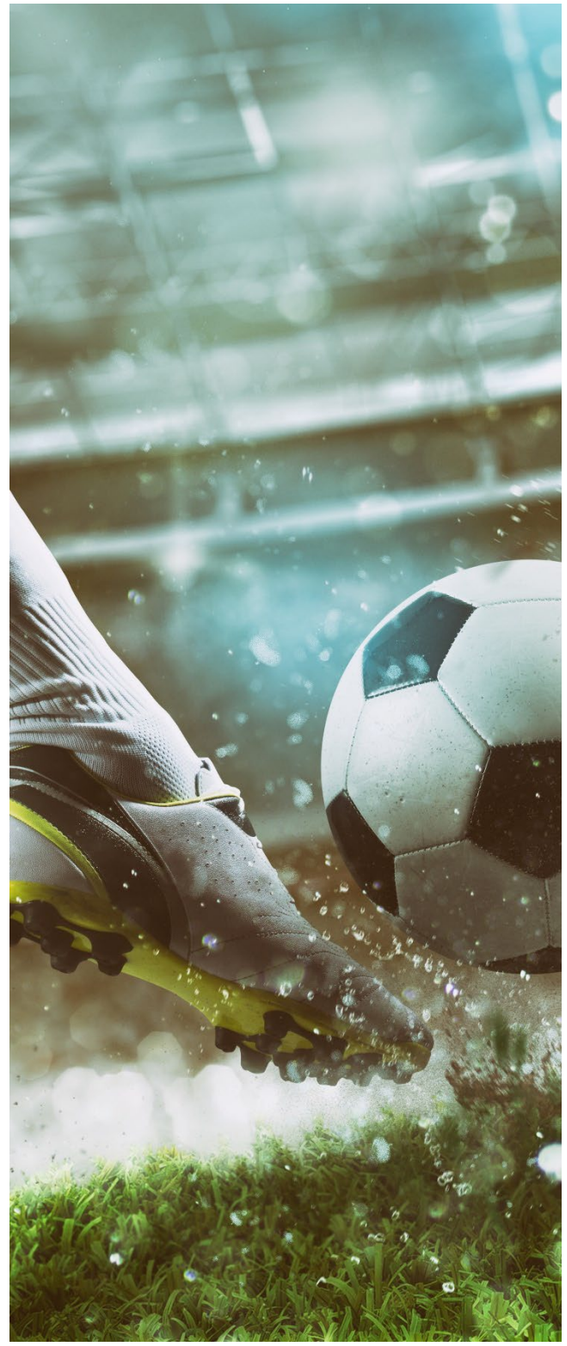
Special steel production under PLI schemes to save forex outgo

27 companies have signed 57 agreements with the government under the PLI 1.0 scheme for specialty steel, to manufacture coated/plated steel products, high strength/wear-resistant steel, specialty rails, alloy steel products, steel wires and electrical steel.

This will help reduce imports and save forex outgo. The success of PLI 1.0 has led to plans for a second edition of the scheme, which will bring in an additional investment of Rs 30,000 crore, leading to capacity addition of 25 million tonnes per annum and creating 55,000 new job opportunities.

Electronics manufacturing gets a fresh Rs 765 crore PLI scheme

The Indian Government has sanctioned a further instalment of production-linked incentive (PLI) scheme, valued at Rs 765 crore, for the electronics manufacturing industry. The scheme involves the distribution of incentives to eligible companies, with the largest sum of Rs 601.93 crore going to Wistron, a contract manufacturer for Apple in India. Padget, a unit of Dixon Technologies, will receive Rs 149.63 crore. AT&S, Shogini, and Alcon Electronics will receive incentives worth Rs 7.58 crore, Rs 3 crore, and Rs 2.40 crore, respectively.



Other Regulatory updates

Legal metrology (packaged commodities) (amendment) rules, 2022 to come into effect from 1st June, 2023

The Ministry of Consumer Affairs, Food and Public Distribution has, *vide* notification dated 28th March, 2022, released Legal Metrology (Packaged Commodities) (Amendment) Rules, 2022.

As per the amendment, the unit sale price ('USP') in rupees, rounded off to the nearest two decimal place, is required be declared on every pre-packaged commodity in the following manner, namely: -

- per gram where net quantity is less than one kilogram and per kilogram where net quantity is more than one kilogram;
- per centimetre where net length is less than one metre and per metre where net length is more than one metre;
- per millilitre where net volume is less than one litre and per litre where net volume is more than one litre;
- per number or unit if any item is sold by number or unit:

The said amendment was to come into effect from 1st April, 2023, however as per the latest notification dated 24th March, 2023 released by the said Ministry, the amendment will now come into effect from 1st June, 2023.

Bar council of India gives permission to foreign law firms to enter India

The BCI vide notification dated March 15, 2023 allowed entry of foreign lawyers and law firms to Register with BCI to practise in India. The following have been specified in this behalf:

- Foreign law firms shall be permitted to practice in non-litigious matters, which would be specified down by BCI in consultation with Ministry of Law.
- Foreign law firms shall be permitted to advice Indian clients on international legal issues, including international arbitration;
- However, they will not be allowed to appear before any courts, tribunals or any other regulatory authorities.

Extension of validity FCRA registration certificate

The Ministry of Home Affairs issued a public notice dated 24 March 2023 in continuation to its earlier public notices dated 12 January 2021, 18 May 2021, 30 September 2021, 31 December 2021, 24 March 2022, 22 June 2022 and 23 September 2022.

FCRA registration certificates whose validity was extended till 31 March 2023 pursuant to earlier notifications and whose renewal application is pending will now stand extended till 30 September 2023 or till date of disposal of renewal application, whichever is earlier.

Further, FCRA registration certificates whose 5 years validity period is getting expired during the period between 1 April 2023 - 30 September 2023 and who have applied for renewal before expiry of 5 years validity period, shall remain valid up to 30 September 2023 or till date of disposal of renewal application, whichever is earlier.

In case of refusal of the application for renewal of certificate of registration, the validity of the certificate shall be deemed to have expired on the date of refusal of the renewal application, and the association shall not be eligible either to receive the foreign contribution or utilise the foreign contribution received.

Orders/judgements (registrar of companies)

Order for penalty for violation of section 94 of the companies Act,2013

Registrar of Companies, Bihar-Cum-Official Liquidator, High Court, Patna has passed an order dated 29.03.2023 under Section 454 of the Companies Act, 2013 (Act) read with Companies (Adjudication of Penalties) Amendment Rules, 2019 for violation of Section 94 of the Act in the matter of M/S Tilak Proficient Nidhi Limited.

As per Section 94(1), the register required to be kept and maintained by a company under section 88 and copies of the annual return filed under section 92 shall be kept at the registered office of the company. Further Section 94(4) states that if any inspection or the making of any extract or copy required under this section is refused, the company and every officer of the company who is in default shall be liable, for each such default, to a penalty of INR 1000 for every day subject to a maximum of INR 100000 during which the refusal or default continues.

Further, Section 446B states that, if penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company**, small company**, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of INR 200000 in case of a company and INR 100000 in case of an officer who is in default or any other person, as the case may be.

- During the inspection the company failed to furnish the registers and records such as stock register, register of contract in which the directors are inserted, register of charges (if any) etc.
- Show cause notice dated 02.01.2023 were issued and reply has been received from the directors stating that the company has submitted the said information and documents in two lots on 25.01.2021 and 24.02.2021. However, the company's reply is not supported by any evidence.
- Further, notice for hearing dated 16.02.2023 were issued to the company and its directors in default. On 14.03.2023 (date of hearing), Company Secretary appeared on behalf of the company but no submission has been made regarding non-compliance.
- The Adjudicating Officer after considering the facts and circumstances imposed the penalty on the company and its directors for failure of compliance of section 94(1) of the Act.
- Penalty imposed for the period 07.02.2022 (date of inspection) till 29.03.2023 (date of order) i.e. **843 days:**
  - Company: 843*1000 = 843000 subject to maximum of 100000 = 100000/2 = 50000
  - Officers in default: 843*1000 = 843000 subject to maximum of 100000 = 100000/2 = 50000 on each officer in default.

Order for Penalty for violation of section 143 of the companies Act, 2013

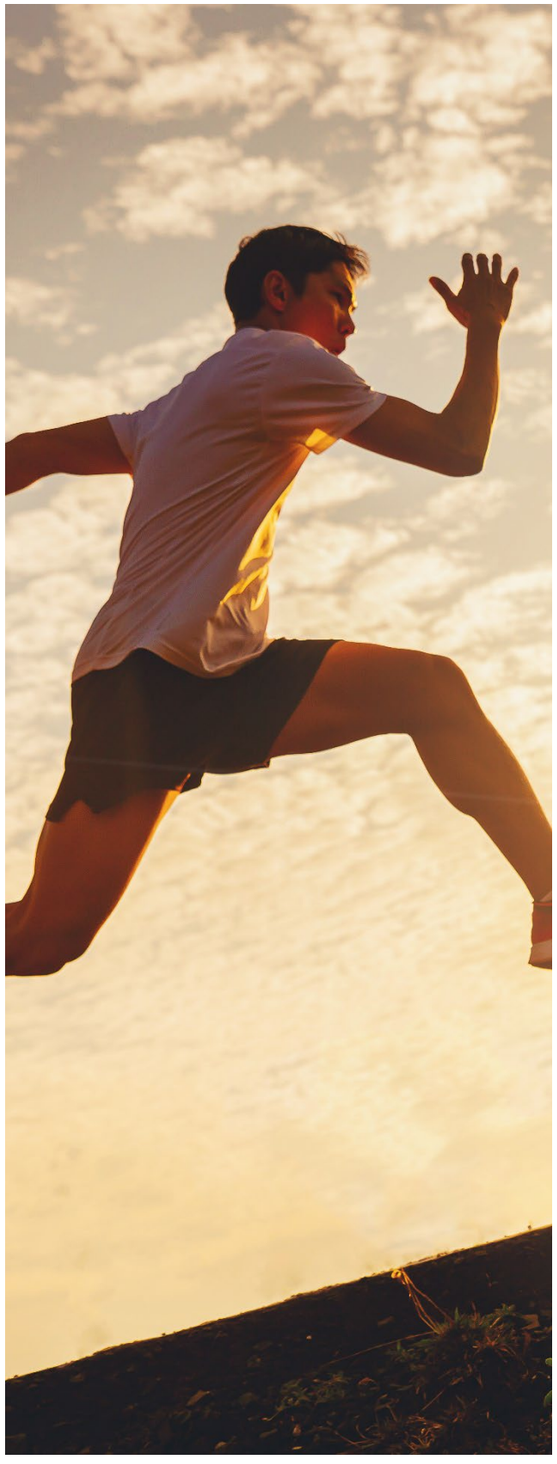
Registrar of Companies, Bihar-Cum-Official Liquidator, High Court, Patna has passed an order dated 29.03.2023 under Section 454 of the Companies Act, 2013 (Act) read with Companies (Adjudication of Penalties) Amendment Rules, 2019 for violation of Section 143 of the Act in the matter of M/S Tilak Proficient Nidhi Limited.

As per Section 143(3)(d), the auditors report shall state whether, the company's balance sheet and profit and loss account dealt with in the report are in agreement with the books of account and returns.

Further, section 450 states that if a company or any officer of a company or any other person contravenes any of the provisions of this Act or the rules made thereunder and for which no penalty or punishment is provided elsewhere in this Act, the company and every officer of the company who is in default or such other person shall be liable to a penalty of INR 10,000, and in case of continuing contravention, with a further penalty of INR 1,000 for each day after the first during which the contravention continues, subject to a maximum of INR 2,00,000 in case of a company and INR 50,000 in case of an officer who is in default or any other person.

Also, Section 446B states that, if penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company**, small company**, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of Rs. 2 Lakh in case of a company and Rs. 1 lakh in case of an officer who is in default or any other person, as the case may be.

- It was apparent from the financial statements for the financial year ended 31.03.2021 Interest Accrued on Secured Long-term borrowing has not been shown in the balance sheet for the year ending 31.03.2021, thereby affecting the true and fair view of the state of affairs of the company in the financial year 2020-21 leading to violation of Section 129 of the Act.
- Further, the auditor has not commented the same in his audit report, thereby leading to violation of Section 143 of the Act.
- Show cause notice dated 02.01.2023 were issued to the auditor for violation of Section 143. However, no reply was received from the auditor.
- Further, notice for hearing dated 16.02.2023 were issued to the auditor in default to appear personally or through authorised representative. On 14.03.2023 (date of hearing), Company Secretary appeared on behalf of the auditor but no submission has been made regarding non-compliance.
- The Adjudicating Officer after considering the facts and circumstances imposed the penalty on the auditor for failure of compliance of section 143(3)(d) of the Act.
- Penalty imposed: 10000 = 10000/2 = 5000/-



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Compliance Calendar

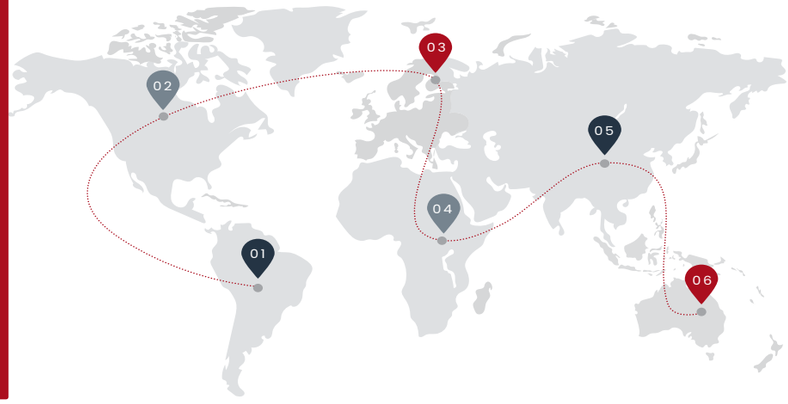
Direct Tax	
Due dates	**Particulars**
7th April 2023	Due date for payment of Equalisation Levy on online advertisement and other specified services, referred to in Section 165 of Finance Act, 2016 for the month of March 2023.
	Due date for payment of Equalisation Levy on e-commerce supply of services, referred to in Section 165A of Finance Act, 2016 for the quarter ending March 31, 2023.
14th April 2023	Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of February, 2023
	Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of February, 2023
	Due date for issue of TDS Certificate for tax deducted under section 194M in the month of February, 2023
	Due date for issue of TDS Certificate for tax deducted under section 194S in the month of February, 2023 (in case of specified person)
30th April 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of March 2023
	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of March 2023
	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M in the month of March 2023
	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194S in the month of March, 2023 (in case of specified person)
	Due date for deposit of Tax deducted/collected for the month of March, 2023

Indirect Tax

S. No.	Compliance Category	Compliance Description	Frequency	Due Date	Due Date falling in March 2023
1	Form GSTR-1 (Details of outward supplies)	Registered person having aggregate turnover more than INR 5 crores and registered person having aggregate turnover up to INR 5 crores who have not opted for Quarterly Returns Monthly Payment ('QRMP') Scheme	Monthly	11th day of succeeding month	For Tax Period March 2023- 11th April 2023
2	Form GSTR-3B (Monthly return)	Registered person having aggregate turnover more than INR 5 crores and registered person having aggregate turnover up to INR 5 crores who have not opted for Quarterly Returns Monthly Payment ('QRMP') Scheme	Monthly	20th day of succeeding month	For Tax Period March 2023- 20th April 2023
3	QRMP Scheme Invoice furnishing facility ('IFF')	• Optional facility to furnish the details of outward supplies under QRMP Scheme	Monthly	1st day to 13th day of succeeding month	• For Tax Period March 2023 - 1 to 13 April 2023
	Form GST PMT-06 (Monthly payment of tax)	• Payment of tax in each of the first two months of the quarter under QRMP Scheme	Monthly	25th of the succeeding month	• For Tax Period March 2023 - 25 April 2023
	Form GSTR-1 (Details of outward supplies)	• Registered person having aggregate turnover up to INR 5 crores who have opted for QRMP Scheme	Quarterly	13th day of the subsequent month following the end of quarter	• For the quarter January 2023 to March 2023 - 13th April 2023
	Form GSTR-3B	• Registered person with aggregate turnover up to INR 5 crore (opted for QRMP Scheme) having place of business in Group 1 states and union territories	Quarterly	22nd day of the subsequent month following the end of quarter	• For the quarter January 2023 to March 2023- 22nd April 2023
	Form GSTR-3B	• Registered person with aggregate turnover up to INR 5 crore (opted for QRMP Scheme) having place of business in Group 2 states and union territories	Quarterly	24th day of the subsequent month following the end of quarter	• For the quarter January 2023 to March 2023- 24th April 2023
4	Form GSTR-6 (Return for Input Service distributor)	• Return for input service distributor	Monthly	13th of the succeeding month	For Tax Period February 2023- 13 April 2023

Regulatory		
Segment	Particulars	Due dates
Monthly ECB return	ECB-2 (Monthly Return of ECBs for the month of March 2022)	7th April, 2023
Half yearly return in respect of outstanding payments to Micro or Small Enterprise under the Companies Act, 2013	Form MSME	30th April, 2023
Regulation 23(9) of SEBI(LODR) Reg. 2015	Disclosures of Related Party Transaction	On the date of publication of its standalone and consolidated financial results.
Regulation 27(2)(a) of SEBI(LODR) Reg. 2015	Submission of a Corporate Governance Report	21st April 2023
Regulation 40(10) of SEBI(LODR) Reg. 2015	Transfer or transmission or transposition of securities	30th May 2023
Regulation 13 (3) of SEBI (LODR) Reg, 2015	Statement of Grievance Redressal Mechanism	21st April 2023
Regulation 31 (1) (b) of SEBI (LODR) Reg, 2015	Shareholding Pattern	21st April 2023
Reg 76 of (SEBI (Depositories and Participants) Regulations, 2018)	Reconciliation of share capital audit report	30th April 2023
Regulation 7 (3) of SEBI (LODR) Reg.	Share Transfer Agent	30th April 2023

Our Locations



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