

August, 2026

TAX Bulletin

Volume - 215

17.08.2026



ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA

भारतीय लागत लेखाकार संस्थान

Statutory Body under an Act of Parliament

(Under the Jurisdiction of Ministry of Corporate Affairs)

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“The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.”

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1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.
4. Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities.
5. Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners and stake holders and also Crash Courses on GST for Colleges and Universities.

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Duration (Hrs)	32	32



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Chairman's Message

CMA Rajendra Singh Bhati
Chairman Direct Taxation Committee



August 2026 has witnessed several important developments in the direct tax landscape, alongside significant statutory compliance requirements. The tax calendar for the month highlights the due date for filing returns for AY 2026–27 by specified non-audit business and professional assessees, as well as partners covered under the prescribed provisions. It also includes various forms and certificates relating to tax deductions, disability-related deductions, royalty income, foreign inward remittances, relief under section 89, rent deduction under section 80GG, retirement benefit accounts under section 89A, and other specified compliances.

The month also saw important notifications under the Income-tax Act, 2025, including notifications granting specified-income exemptions to various statutory bodies and authorities, subject to prescribed conditions. Further, approvals were notified for entities undertaking scientific research, reinforcing the policy focus on encouraging research and institutional development. Notably, the Foreign Assets of Small Taxpayers–Disclosure Scheme Rules, 2026 were notified and came into force from 16 August 2026, providing a framework for disclosure of specified foreign assets by eligible small taxpayers.

These developments reflect the continuing transition towards the new income-tax framework while maintaining appropriate transitional provisions for

matters governed by the earlier law. I encourage members and taxpayers to remain abreast of these changes, carefully assess their applicability and complete all prescribed compliances within the stipulated timelines. Timely action, proper documentation and continuous awareness remain essential for ensuring efficient and responsible tax compliance.

The Tax Research Department also organised focused learning initiatives during the month. The webinar on “Capital Market Investments and Taxation”, conducted by Ms. Himani Lath on 6 August 2026, provided valuable insights into the taxation aspects of capital market investments. This was followed by “ITR 6 (Part 1)” conducted by CMA Gopal Krishna Raju on 11 August 2026, focusing on important practical aspects of income-tax return filing. Such initiatives continue to equip our members and stakeholders with relevant knowledge and practical understanding of the evolving tax environment.

I encourage all members and taxpayers to remain updated with these legislative and compliance developments, carefully assess their applicability and ensure timely fulfilment of all statutory requirements. Through continuous learning, professional engagement and proactive compliance, we can effectively navigate the evolving tax framework and contribute meaningfully to a more informed and compliant tax ecosystem.

CMA Rajendra Singh Bhati
Chairman – Direct Taxation Committee
The Institute of Cost Accountants of India
Date: 17.08.2026



Chairman's Message

CMA (Dr.) Ashish P. Thatte

Chairman Indirect Taxation Committee



The month of August 2026 witnessed important developments in the sphere of indirect taxation, reflecting the Government's continued endeavour to strengthen a tax framework that balances revenue considerations, regulatory clarity, ease of compliance and trade facilitation. The changes in the Central Excise duty structure on specified petroleum products indicate the responsive nature of indirect tax policy and the need for businesses and professionals to remain vigilant regarding changes in applicable rates and their effective dates.

Another significant development during the month was the strengthening of the Customs framework for the clearance of imported goods through Foreign Post Offices. The introduction of a more technology-driven, risk-based and uniform approach to the processing of personal postal imports represents an important step towards modernising Customs administration. The integration of the Foreign Post Office processing system with the Risk Management System enables greater focus on consignments identified for assessment or examination based on defined risk parameters, while facilitating compliant transactions.

These developments reflect the broader transformation taking place in indirect tax administration, where technology, risk-based compliance, uniformity and taxpayer facilitation are becoming increasingly integral to the regulatory framework. The objective is not merely to strengthen enforcement but also to create processes that enable legitimate trade and compliant taxpayers to navigate the tax system with greater certainty

and efficiency. For tax professionals, this evolving environment highlights the importance of keeping pace with both substantive tax provisions and procedural mechanisms. A sound understanding of digital systems, compliance requirements, risk-based assessment and evolving administrative practices is now essential for providing effective professional guidance.

The Tax Research Department remains committed to supporting members and stakeholders through continuous knowledge dissemination and professional development initiatives. As the indirect taxation framework continues to evolve, I encourage our members to remain updated, embrace technology-driven compliance and contribute towards building a transparent, efficient and facilitative indirect tax ecosystem.

The Department also continued its efforts towards professional knowledge enhancement through focused discussions on emerging issues in GST. On 12 August 2026, a webinar led by CMA Rohit Singh examined the critical question of "Is the Buyer Liable for Supplier GST Non-Compliance? – Supreme Court Ruling: Bhandari Scrap Traders." The session provided valuable insights into the implications of the Supreme Court's ruling for buyers and businesses, particularly in relation to supplier compliance and the extent of responsibility that may arise in a transaction. The discussion highlighted the growing importance of vendor due diligence, proper documentation and robust compliance mechanisms in safeguarding businesses against potential tax exposures arising from supplier-related non-compliance.

Ashish Thatte

CMA (Dr.) Ashish P Thatte

Chairman – Indirect Taxation Committee

The Institute of Cost Accountants of India

Date: 17.08.2026

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DECODING CORPORATE CONCESSIONS

The Concessional Tax Regime for Domestic Companies Under the Income Tax Act, 2025 vis-a-vis the 1961 Legacy

Disclaimer: This article has been prepared for general professional and academic discussion based on the text of the Income Tax Act, 1961, the Income Tax Act, 2025, the Income-tax Rules, 1962, the Income-tax Rules, 2026, CBDT circulars and notifications, and reported judicial and Tribunal decisions referred to herein, as understood as on the date of this article. Rules, forms and administrative guidance under the Income Tax Act, 2025 continue to be notified and refined during the transition period, and readers should verify the current position directly from the official text of the Act, the rules framed thereunder, and CBDT notifications before relying on any statement made in this article. This article does not constitute legal or tax advice and should not be relied upon as a substitute for consultation with a qualified tax professional or legal counsel, or for independent verification of the full text of the cited provisions and decisions from primary sources.



CMA Niranjan Swain

Advocate & Tax Consultant

1961 Act this bargain lived in Sections 115BAA and 115BAB; under the 2025 Act it lives in Sections 200 and 201. This article decodes what has changed, what has not, where the trade-offs sit, and what a company or its adviser must now do differently on the Income Tax Department portal. It proceeds through five themes: policy continuity in the headline rates, the structural and terminological shift, the conditionality and trade-offs of the option, the compliance mechanics of Form No. 10-IC, and the practical impact on filing, with a verified table of judicial precedents included for ready reference.

Introduction

For more than six decades, the Income Tax Act, 1961 governed corporate taxation in India. It grew to over eight hundred sections across forty-seven chapters through repeated amendment. The Income Tax Act, 2025, enacted on the recommendations of a Select Committee of the Lok Sabha, took effect from 1 April 2026. It consolidates the law into five hundred and thirty-six sections across twenty-three chapters. Its declared purpose was to simplify language and structure, not to alter substantive tax outcomes. Among the provisions carried forward is the concessional tax regime for domestic companies, central to corporate tax planning since the Taxation Laws (Amendment) Act, 2019. This regime lets companies trade specified deductions, incentives and Minimum Alternate Tax credit for a materially lower headline rate. Under the

Policy Continuity: The Headline Rates Have Not Moved

The most important fact for a tax adviser to convey is also the simplest. The concessional rates have not changed on account of the recodification. A company opting for the general regime still pays twenty-two per cent. A qualifying new manufacturing company still pays fifteen per cent. The flat ten per cent surcharge and four per cent cess are also unchanged. The effective rates therefore remain 25.17 per cent and 17.16 per cent respectively.

Table 1: Comparative Rate Architecture, 1961 Act and 2025 Act

Regime	1961 Act Section	2025 Act Section	Headline Rate	Effective Rate (with 10% surcharge, 4% cess)
General concessional regime for domestic companies	Section 115BAA	Section 200	22%	25.17%
Certain manufacturing domestic companies	Section 115BA	Section 199	25% (subject to turnover/ incorporation conditions)	Approx. 29.12%, subject to slab-based surcharge
New manufacturing domestic companies	Section 115BAB	Section 201	15%	17.16%
Minimum Alternate Tax on book profit	Section 115JB	Section 206	15% of book profit	Not applicable to a company that has validly opted for Section 200 or Section 201
Standard rate absent any option	Section 115BBF and general charging provisions	General charging provisions of the 2025 Act	30% (25% for companies below the specified turnover threshold)	As increased by slab-based surcharge and cess

Figures are illustrative of the standard case and do not account for marginal relief, sector-specific rates, or amendments made by subsequent Finance Acts. Practitioners should verify the surcharge slab applicable to a company that has not opted into Section 200 or Section 201, since such a company remains subject to slab-based surcharge rather than the flat 10% that applies once the option is exercised.

The Ministry of Finance has described the 2025 Act as a simplification exercise, not a rate revision. Table 1 confirms this for the concessional regime. No accompanying amendment altered the 22%, 15% or 25% figures, the surcharge, or the cess. The commercial bargain a company evaluates, a lower rate against foregone deductions and MAT credit, remains identical in substance.

Structural Shift: Re-Indexing, Streamlined Language and the Tax Year

While the rates have not moved, the surrounding architecture has changed considerably. Three structural

changes matter most on a first reading of Section 200 or Section 201: the renumbering of every cross-referenced provision, the conversion of provisos into independently numbered sub-sections, and the replacement of the dual Previous Year and Assessment Year concept with a single Tax Year.

1. Re-indexing and drafting style

Section 115BAA expressed key rules, including irrevocability and migration from the manufacturing regime, as provisos to sub-section (5). The 2025 Act restates each as an independently numbered sub-section, namely sub-sections (6) and (7) of Section 200, and similarly for Section 201. This is a genuine drafting improvement. A proviso buried in a long sub-section is harder to cite than a free-standing one, even though the rule itself is unchanged.

2. The Tax Year replaces Previous Year and Assessment Year

The 2025 Act defines a Tax Year as the twelve months from 1 April to 31 March, used throughout in place of the 1961 Act's dual Previous Year and Assessment Year concept. Income earned in Tax

Year 2026-27 is also assessed by reference to Tax Year 2026-27. This removes the need to translate between two differently labelled periods. The change is presentational, not substantive, but it matters in

practice. Any reference in older commentary or case law to a particular Assessment Year must be correlated with the corresponding Tax Year before it is applied to Section 200 or Section 201.

Table 2: Structural and Terminological Mapping

Structural Feature	Position Under the 1961 Act	Position Under the 2025 Act
Total sections / chapters	Approximately 819 sections across 47 chapters, built up over more than six decades	536 sections across 23 chapters, consolidated in a single recodification exercise
Year concept	Dual concept: Previous Year (income earned) and Assessment Year (income assessed)	Unified Tax Year (1 April to 31 March), earning and assessment referenced to the same period
Due date for return of income	Section 139(1)	Section 263(1)
Power to condone delay for genuine hardship	Section 119(2)(b)	Section 239
Drafting of qualifications and exceptions	Frequently expressed as provisos to a substantive sub-section	Restated as independently numbered sub-sections or lettered clauses
MAT computation and MAT credit	Two separate sections: 115JB (computation) and 115JAA (credit)	Consolidated into a single section, Section 206, with credit provisions as sub-sections (13) to (16)

Sections 200 and 201 cross-refer to many other provisions. An accurate reading requires each cross-reference to be traced to its renumbered equivalent, not assumed by analogy. Commentary written for Section 115BAA should be treated as provisional until every section number is checked against the 2025 Act.

Conditionality and Trade-Offs: What a Company Must Give Up

The concessional rate has never been unconditional. Under both Acts, a company opting for the lower rate must compute income without a specified list of deductions and incentives. It must forgo carry-forward and set-off of any loss or unabsorbed depreciation attributable to those deductions. The option, once exercised, is irrevocable for that year and every subsequent year. The company also falls outside Minimum Alternate Tax altogether, so any brought-forward MAT credit lapses permanently.

Table 3: Deductions and Incentives Required to be Foregone

Deduction / Incentive Foregone	1961 Act Section	2025 Act Section	Applies to Section 200 / 115BAA	Applies to Section 201 / 115BAB
Deduction for units in Special Economic Zones	Section 10AA	Section 144	Yes	Yes

Deduction / Incentive Foregone	1961 Act Section	2025 Act Section	Applies to Section 200 / 115BAA	Applies to Section 201 / 115BAB
Additional depreciation on new plant and machinery	Section 32(1) (iia)	Consolidated within Section 33	Yes	Yes
Investment allowance in notified backward areas	Section 32AD	Consolidated within Section 33	Yes	Yes
Tea, coffee and rubber development account	Section 33AB	Section 48	Yes	Yes
Site Restoration Fund	Section 33ABA	Section 49	Yes	Yes
Expenditure on scientific research	Section 35	Section 45	Yes	Yes
Capital expenditure of specified business	Section 35AD	Section 46	Yes	Yes
Agricultural extension project	Section 35CCC	Section 47	Yes	Yes
Deductions under Chapter VI-A, Part C (other than Sections 80JJAA and 80M)	Chapter VI-A, Part C	Consolidated deductions chapter of the 2025 Act	Yes	Yes
Deduction for additional employee cost (retained as an exception)	Section 80JJAA	Section 146	Retained, not foregone	Retained, not foregone
Deduction for inter-corporate dividends (retained as an exception)	Section 80M	Section 148	Retained, not foregone	Retained, not foregone
Set-off of brought-forward loss or unabsorbed depreciation attributable to the above	Section 115BAA(2) (ii) / 115BAB	Section 200(1) (b)-(c) / Section 201	Yes, permanently lapses	Yes, permanently lapses
Minimum Alternate Tax credit under the earlier regime	Section 115JAA, extinguished by sub-section (8)	Section 206(13) to (16)	Yes, permanently lapses	Yes, permanently lapses

It bears emphasis that the list of foregone deductions, the two statutory exceptions preserved for additional employee cost and inter-corporate dividends, and the rule of permanent lapse for brought-forward loss, unabsorbed depreciation and MAT credit are all reproduced without substantive change in the 2025 Act. The trade-off that a finance team evaluates before exercising the option is therefore the same trade-off that existed under the 1961 Act, merely restated under new section numbers.

The temporary drafting gap concerning inter-corporate dividends

The drafting history of Section 200 holds one instructive episode. The Income Tax Bill, 2025, as introduced in February 2025, did not include the successor to Section 80M among the exceptions to foregone deductions. Had this gap remained, a company opting for the 22% regime could not have claimed relief for inter-corporate dividends, reviving the cascading taxation that Section



80M was inserted to prevent. The Select Committee of the Lok Sabha caught the gap, and the exception was restored before enactment. The episode is a reminder that recodification on this scale carries a genuine, if now resolved, risk of unintended change.

Summary of Key Differences: Provisions and Compliance

Drawing the threads of Sections 2 to 4 together, the differences between the 1961 Act and the 2025 Act are structural and procedural rather than substantive. The rates, the list of foregone deductions, the two statutory exceptions, the rule of irrevocability and the exclusion from Minimum Alternate Tax are unchanged in figure and in principle. What has changed is the address and drafting of each rule: the due date for the return moves from Section 139(1) to Section 263(1); the power to condone delay moves from Section 119(2)(b) to Section 239; MAT computation and MAT credit, split across Sections 115JB and 115JAA, are consolidated into Section 206; the deductions in Sections 10AA, 32, 33AB, 33ABA, 35, 35AD and 35CCC are renumbered to Sections 144, 33, 48, 49, 45, 46 and 47; and the dual Previous Year and Assessment Year concept is replaced by a single Tax Year. On compliance, the option continues to require both a disclosure in the return and a prescribed form, filed electronically and authenticated by digital signature or electronic verification code, with the form itself migrating from Rule 21AE of the 1962 Rules to its successor under the Income-tax Rules, 2026. Practitioners should treat every 1961 Act citation as a pointer to substance only, and verify its 2025 Act address before use.

Form No. 10-IC: Contents, Importance, Conditions and Consequences of Non-Compliance

The concessional rate under Section 115BAA, and now under Section 200, is not self-executing. A domestic company becomes entitled to the twenty-two per cent

rate only after it has exercised the option in the manner prescribed by Rule 21AE of the Income-tax Rules, 1962, which requires the option to be furnished electronically in Form No. 10-IC. Because this single form stands between a company and a materially lower tax rate, and because the courts have repeatedly been called upon to decide the consequences of getting it wrong, it deserves detailed treatment in its own right.

1. Why Form No. 10-IC matters

Form No. 10-IC is the statutory instrument through which a company tells its Assessing Officer, and the Department's systems, that it has chosen Section 115BAA over the normal provisions. Its importance is threefold. First, it is the operative act that brings the concessional rate into effect; without it, the company stays on the standard rate regardless of any internal decision. Second, since the option is irrevocable, the form is the point of no return and should be treated as a final strategic decision, not a routine filing. Third, it must reconcile with the disclosures in the company's return, so the form and the return tell one consistent story.

2. Contents of Form No. 10-IC

Part of the Form	Particulars	Purpose
Addressee	Jurisdictional Assessing Officer, auto-confirmed on the portal	Fixes the authority before whom the option is placed
Declarant	Principal officer's name and capacity	Fixes the authorised signatory
Company particulars	Name, PAN, registered address, domestic company status	Identifies the taxpayer
Previous year of exercise	Year from which Section 115BAA(5) applies, and all subsequent years	Fixes when the rate and its consequences begin

Part of the Form	Particulars	Purpose
IFSC unit declaration	Any unit eligible for deduction under Section 80LA(1A)	Reconciles with IFSC-linked incentives
Withdrawal of Section 115BA option	Express withdrawal of any earlier Form No. 10-IB election	Prevents overlap of two concessional regimes
Verification	Self-declaration, authenticated by DSC or EVC	Fixes accountability for the filing

3. Conditions attached to a valid exercise of the option

- The form must be filed electronically on the Income Tax Department's e-filing portal, under the path e-File, Income Tax Forms, File Income Tax Forms; a physical or emailed copy has no statutory effect.
- The filing must be authenticated by a digital signature or an electronic verification code, failing which the filing is incomplete.
- The form must be furnished on or before the due date for furnishing the return of income specified under Section 139(1) of the 1961 Act, now Section 263(1) of the 2025 Act; a form filed after this date, without more, does not validly exercise the option.
- The option indicated in Form No. 10-IC must also be reflected in the company's return of income itself, in the field that asks whether the company has opted for taxation under Section 115BA, 115BAA or 115BAB. Filing the form while the return itself states that no such option has been exercised does not satisfy the statutory condition, a point conclusively settled by the Delhi High Court in the Sarla Holdings decision discussed in the case law table below.
- Where the company had earlier exercised the option under Section 115BA through Form

No. 10-IB, that option must be expressly withdrawn within Form No. 10-IC itself; an inconsistent or incomplete withdrawal exposes the filing to challenge.

- Once validly exercised, the option applies to the year of filing and to every subsequent tax year without need for renewal, and cannot thereafter be withdrawn, so the decision should be taken only after the cost-benefit analysis described in Section 9 of this article has been completed.

4. Consequences of deviation and non-compliance

The consequences of getting Form No. 10-IC wrong vary sharply with the nature of the default. Case law draws a clear line between two categories of default.

- Failure to indicate the option in the return of income itself is treated as a substantive default rather than a curable procedural lapse. Where the return expressly states that no concessional option has been exercised, a subsequently filed Form No. 10-IC, even one relying on a CBDT condonation circular, does not entitle the company to the concessional rate for that year; the company remains taxable under the normal provisions, including Minimum Alternate Tax where applicable, for the year in question.
- Delay in filing Form No. 10-IC where the option was in fact indicated in the return, and the intention to opt for the concessional regime is evident from the return and the tax audit report, has been treated by several High Courts and by the Tribunal as a curable procedural default, capable of condonation for genuine hardship under Section 119(2)(b), now Section 239 of the 2025 Act, subject to the conditions and outer time limits set out in CBDT circulars.
- An incomplete or inconsistent withdrawal of an earlier option under Section 115BA can render the Form No. 10-IC filing defective, exposing the company to a finding that the concessional rate under Section 115BAA was never validly claimed, with consequential

reopening of the assessment and a higher tax demand than originally returned.

- Where the option is invalidated for any tax year on account of a default described above, the deeming provision that treats brought-forward loss and unabsorbed depreciation attributable to the foregone deductions as having been given full effect to does not get reversed; the company loses both the concessional rate for the year in question and the ability to resurrect the deductions and losses it had already foregone in anticipation of that rate, a genuinely punitive combination that makes the accuracy of the form a matter of real financial consequence rather than a paperwork formality.
- Any additional tax demand arising from denial of the concessional rate carries consequential interest and, depending on the facts, exposure to penalty for underreporting of income, in addition to the reputational and governance cost of a failed election that could have been avoided by careful filing.

5. Position of Form No. 10-IC under the Income Tax Act, 2025

Section 200(5) reproduces, without material change, the requirement that the option be exercised

by the due date under Section 263(1). Section 200(2) similarly provides that failure to satisfy the section renders the option invalid for that year and every subsequent year. The dual requirement from the **Sarla Holdings Private Limited v. Principal Commissioner of Income Tax, Delhi**⁷, New Delhi & Anr (2025 TAXSCAN (SC) 371 / SLP(C) No. 26539/2025, dated 28 May 2025) line of authority, that the option be indicated in the return as well as in the prescribed form, should therefore continue under Section 200. The form itself will be notified under the Income-tax Rules, 2026, as successor to Rule 21AE. Practitioners / readers should confirm its number and format on the portal rather than assume the old designation carries over unchanged.

Circulars and Notifications Relevant to the Concessional Regime

A body of CBDT circulars grew up around the compliance mechanics of Sections 115BAA and 115BAB, mainly on delay in filing the option form. Since Sections 200 and 201 reproduce the rule of exercise without material change, this guidance remains directly relevant, subject to one point: its statutory anchor, Section 119(2)(b), is now Section 239.

Table 4: Key Circulars and Notifications

Instrument	Date	Subject Matter	Relevance Under the 2025 Act
CBDT Circular No. 6/2022	17 March 2022	Condoned delay in filing Form No. 10-IC for AY 2020-21, where the return was filed on time and the option indicated therein	A circular can cure delay in the form, not failure to exercise the option in the return; the same should hold under Section 239
CBDT Circular No. 19/2023	23 October 2023	Extended condonation of delay in filing Form No. 10-IC to further assessment years, on similar conditions	Condonation relief has been extended year by year, not as a standing rule, a pattern likely to continue under Section 239
CBDT Circular No. 17/2024	17-18 Nov. 2024	Delegated condonation authority to Pr. Commissioners/Pr. Chief Commissioners for AY 2020-21 to 2022-23, subject to a three-year outer limit	Sets the administrative hierarchy and outer time limit that practitioners should verify have carried forward to Section 239

Instrument	Date	Subject Matter	Relevance Under the 2025 Act
Income-tax (Fourth Amendment) Rules, 2020	With effect from AY 2020-21	Inserted Rules 21AE/21AF prescribing Forms 10-IC and 10-ID as the manner of exercising the option	Superseded from Tax Year 2026-27 by the Income-tax Rules, 2026; successor form numbers should be verified, not assumed
Income-tax Rules, 2026	Notified during transition to the 2025 Act	Restructured and renumbered forms under the 1962 Rules, reducing their total count	Governs exercise of the option under Section 200(5) and Section 201 from Tax Year 2026-27

The successor form numbers under the Income-tax Rules, 2026 were, as of the date of this article, in the process of being finally settled and notified. Practitioners should confirm the current form number and mode of furnishing directly from the notified Rules and the Income Tax Department portal, rather than assume the old numbers carry over unchanged.

Compliance Impact: Practical Takeaways for Filing Under the Income Tax Department Portal

- A company that has already exercised the option, and whose election continues under the transitional provisions, needs no fresh filing on account of the recodification alone. A company considering the option for the first time, or its adviser, should note the following points when filing on the portal from Tax Year 2026-27 onward.
- Exercise the option in the return itself. Judicial precedent under the 1961 Act, discussed in the case law table below, confirms that indicating the option in the income tax return is a mandatory substantive condition, and that a circular condoning delay in filing the prescribed form cannot cure a case in which the return itself did not reflect the option. This principle should be treated as carrying forward, without dilution, to a return filed under Section 200(5) or the corresponding provision of Section 201.
- File the prescribed form by the due date under Section 263(1). The due date for furnishing the return of income, previously anchored to Section 139(1), is now anchored to Section 263(1) of the 2025 Act. Every internal compliance calendar, tax engagement letter and portal reminder that refers to Section 139(1) in connection with this option should be updated to refer to Section 263(1).
- Verify the current form number before filing. Because the Income-tax Rules, 2026 have restructured and renumbered statutory forms, the form used to exercise the option under Section 200 or Section 201 should be confirmed directly on the e-filing portal at the time of filing, rather than assumed to retain the Form No. 10-IC or Form No. 10-ID designation.
- Do not assume MAT applicability has changed. A company that has validly exercised the option under Section 200 or Section 201 continues to fall outside the Minimum Alternate Tax framework under Section 206, exactly as it fell outside Section 115JB under the 1961 Act, so no parallel book-profit computation is required and no MAT credit accrues.
- Treat brought-forward MAT credit as extinguished, not suspended. Any MAT credit accrued prior to exercising the option lapses permanently on exercise, whether that credit arose under Section 115JAA of the repealed Act or under the corresponding sub-sections of Section 206, and cannot be revived by the recodification.
- Track the special-rate override question separately. Section 200(1) of the 2025 Act uses a more granular “subject to” formulation than Section 115BAA(1) did, listing specific Parts of the Act rather than referring generally to an entire Chapter. Whether this changes the treatment of income otherwise chargeable at a special rate, such as long-term capital gains, is not yet settled, and companies with material capital gains should monitor early rulings



on Section 200 specifically rather than assume the position under Section 115BAA has been carried forward unchanged.

- Re-verify every cross-reference before relying on legacy commentary. Because the deductions, MAT provisions, condonation power and due-date provisions have all been renumbered, and in the case of MAT consolidated into a single section, professional opinions and commentary written under the 1961 Act should be read as a guide to substance only, with every section number independently checked against the 2025 Act before it is cited in an opinion, a return, or a submission to the tax authorities.

Illustrative computation for Tax Year 2026-27

The method of computing taxable income under Section 200 mirrors the method under Section 115BAA, since the charging rule and the list of foregone deductions are substantively unchanged. The illustration below, in Rupees lakh, assumes a domestic company that has validly exercised the option under Section 200(5) from Tax Year 2026-27.

Particulars (2025 Act reference)	₹. lakh
Net profit as per Statement of Profit and Loss	600.00
Add: depreciation as per books	90.00
Add: CSR expenditure disallowed (Sec. 37(1) Expl. 2)	5.00
Add: tax/cess on profits disallowed (Sec. 40(a))	4.00
Add: statutory dues unpaid by due date (Sec. 43B)	9.00
Add: provision for doubtful debts	5.00
Less: normal depreciation, no additional depreciation (Sec. 33)	(75.00)
Less: inter-corporate dividend received (Sec. 148)	(12.00)
Less: capital asset profit taxed under another head	(4.00)
Profits and gains of business or profession	622.00
Add: income from other sources	14.00

Particulars (2025 Act reference)	₹. lakh
Gross total income	636.00
Less: additional employee cost (Sec. 146)	(6.00)
Less: inter-corporate dividend, balance (Sec. 148)	(1.00)
Total income taxable at 22% (Sec. 200(1))	629.00
Tax at 22%	138.38
Add: surcharge at 10%, flat	13.84
Tax plus surcharge	152.22
Add: health and education cess at 4%	6.09
Income tax payable	158.31
MAT liability (Sec. 206)	Not applicable
MAT credit for set-off (Sec. 206(13)-(16))	Nil

Deductions specifically disallowed under Section 200(1) (a), such as those under Sections 33, 45 to 49, 144 and Chapter VI-A Part C other than Sections 146 and 148, have not been claimed in this illustration, consistent with the terms of the option. Additions for CSR expenditure, disallowed statutory dues and unascertained provisions apply irrespective of the regime chosen, since they arise from general computation provisions rather than from the concessional regime itself.

Role of Management Accountants in the Concessional Tax Regime

Cost and Management Accountants sit at the intersection of cost data, MIS and statutory tax compliance. Their contribution to Section 200 and Section 201 spans the areas listed below.

- Cost-benefit and scenario modelling of the option before it is exercised, since it is irrevocable.
- Quantifying deductions and incentives foregone, drawing on cost records for SEZ units, R&D and similar cost pools.

- Capital budgeting and eligibility monitoring for the Section 201 manufacturing conditions.
- MAT credit quantification and deferred tax write-off forecasting for the financial statements.
- Compliance calendar management and cross-verification of the return and Form No. 10-IC before filing.
- Maintaining an old-to-new section mapping register across ERP tax codes and MIS reports.
- Preparing the board and audit committee tax strategy note supporting the irrevocable decision.
- Post-implementation assurance, testing continued compliance with the option's conditions each year.

Critical Analysis

1. Continuity has, on the whole, been achieved

On a clause-by-clause comparison, Sections 200 and 201 reproduce the rate of tax, the list of foregone deductions, the two statutory exceptions, the rule of irrevocability, and the mechanism for exercising the option. The consolidation of MAT computation and credit into one section, Section 206, is a genuine and welcome improvement in usability.

2. The Section 80M episode is a caution, not a criticism

The temporary omission of the Section 80M exception shows that recodification on this scale is not a risk-free, purely mechanical renumbering. That a parliamentary Select Committee, not the ordinary drafting process, caught the gap suggests other provisions may warrant similar scrutiny before being relied upon, especially in the early years of the new Act.

3. The special-rate override question remains open

The shift from a general “subject to the provisions of this Chapter” formulation to the more specific “subject to the provisions of Parts A, B and this Part” is, in this article’s view, one of the more consequential drafting changes examined above, because its effect on income chargeable at a special rate remains genuinely ambiguous. This should be clarified authoritatively, by CBDT circular or early judicial pronouncement, rather than left to fresh litigation.

4. Continuity of case law should not be assumed without verification

Judicial decisions under the 1961 Act should continue to carry persuasive weight under the 2025 Act, provided the language is truly in *pari materia*. Since the 2025 Act altered cross-references, converted provisos into sub-sections, and, for Section 80M, briefly altered then restored a substantive rule, a practitioner should re-verify, section by section, that the specific language relied upon has survived intact, rather than assuming wholesale continuity from a broadly similar structure.

Verified Judicial Precedents

The table below lists judicial and Tribunal decisions on Section 115BAA and Section 115BAB, independently checked against reported citations before inclusion. Readers should independently confirm the current status of each decision, including any further appeal, before relying on it.

Case	Forum and Citation	Principle Decided	Bearing on the 2025 Act
Sarla Holdings Pvt. Ltd. v. Pr. CIT	Delhi HC, W.P.(C) 325/2024, dated 28 May 2025; SLP dismissed by the Supreme Court	Exercising the option in the return itself is mandatory; Circular No. 6/2022 cannot cure a case where the return declined the option	Section 200(5) carries the identical requirement; the reasoning should apply once section numbers are substituted



Case	Forum and Citation	Principle Decided	Bearing on the 2025 Act
Cell Com Teleservices (P.) Ltd. v. UOI	Allahabad HC, Writ Tax No. 278/2024, (2025) 176 taxmann.com 712	Filing Form 10-IC before the return is not mandatory; delay may be condoned for genuine hardship where intent is evident from the return and tax audit report	Condonation now sits in Section 239; a company under Section 200 may invoke similar reasoning, subject to fresh guidelines
Finecab Wires and Cables (P.) Ltd. v. DCIT	ITAT Hyderabad, ITA No. 614/Hyd/2025, dated 20 August 2025	Where the rate was denied solely for non-filing, the Tribunal remanded, subject to condonation being separately granted under Section 119(2) (b)	Relief for delay remains administrative discretion, not an automatic Tribunal entitlement, equally true under Section 200
Maharishi Education Corp. (P.) Ltd. v. ITO	ITAT Delhi, ITA No. 2639/DEL/2025	A company under Section 115BAA is taxed at a flat 22% on its entire income, including long-term capital gains, since the non-obstante clause overrides special rates	Directly bears on whether Section 200(1)'s narrower "subject to" wording still overrides special rates; the point remains open
CIT v. Tulsyan NEC Ltd.	Supreme Court, (2011) 330 ITR 226 (SC)	MAT credit under Section 115JAA is a statutory entitlement, not a matter of the Assessing Officer's discretion	Explains why an express carve-out, now in Section 206(13)-(16), was needed to extinguish MAT credit on exercising the option

Case citations were verified against reported sources as of the date of this article. Litigation under Section 115BAA is ongoing across High Courts and Tribunal benches; practitioners should re-confirm the current procedural status of each decision before citing it in professional advice.

Conclusion

Sections 200 and 201 of the 2025 Act carry forward, in substantially unaltered form, the concessional tax bargain domestic companies have relied upon since 2019 under Sections 115BAA and 115BAB of the 1961 Act. The rates of twenty-two and fifteen per cent,

the surcharge and cess, the list of foregone deductions, the rule of irrevocability, and the exclusion from Minimum Alternate Tax are all preserved. What has changed is the address of each rule, the drafting style, the terminology for the relevant year, and, in a few respects such as the special-rate override question, the precision of the wording. Companies already exercising the option need no fresh compliance step on account of the recodification alone. Companies approaching the option for the first time should evaluate the trade-off exactly as under the 1961 Act, while independently verifying every section, form and circular reference rather than assuming familiarity with Section 115BAA is a substitute for reading Section 200 and Section 201 directly.

Legal and Practical Challenges in Determining the Timing of GST-TDS under Section 51 of the CGST Act



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Abstract:

Section 51 of the Central Goods and Services Tax Act, 2017 requires specified entities to deduct GST-TDS from amounts paid or credited to suppliers. Unlike the corresponding provisions under the Income Tax Act, which explicitly mandate deduction at the time of credit or payment, whichever is earlier, Section 51 omits this phrase, giving rise to an important interpretational issue regarding the timing of GST-TDS deduction. This article examines whether the expression “paid or credited to the supplier” creates alternative triggering events for deduction or permits any discretion to the deductor. Through textual, purposive, and contextual analysis, the study evaluates the significance of the word “or”, the legislative objectives of the GST-TDS framework, and the practical implications arising from year-end provisions, accrual entries, and supplier-specific credits. The article further analyses the reporting framework under Form GSTR-7 and its apparent linkage to invoice-based payments. It concludes that while Section 51 appears to contemplate deduction upon the occurrence of either payment or supplier-specific credit, ambiguity persists in cases involving provisions and unidentified liabilities. The study recommends legislative or administrative clarification to ensure certainty, consistency, and uniform compliance with GST-TDS provisions.

Introduction

The concept of Tax Deducted at Source (TDS) was introduced in taxation laws to facilitate the collection of tax at the very source of income or transaction. Under this mechanism, a person responsible for making specified payments (the deductor) is required to deduct tax at the prescribed rate and remit the same to the Government. The recipient of the payment (the deductee) is entitled to claim credit of the tax so deducted on the basis of the relevant tax records and certificates.

In India, the TDS mechanism operates under both the direct and indirect tax regimes. Under the Income Tax Act, TDS is a well-established withholding mechanism applicable to various categories of payments such as salary, professional fees, interest, rent, and contractual



payments. Similarly, under the Goods and Services Tax (GST) framework, Section 51 of the Central Goods and Services Tax Act, 2017 (CGST Act) mandates specified entities to deduct tax at source from payments made to suppliers under prescribed circumstances.

A notable difference, however, exists in the drafting of the two statutes. Section 393(1) of the Income Tax Act, 2025 explicitly provides that tax is to be deducted at the earlier of the time of credit or the time of payment.

In contrast, Section 51(1) of the CGST Act requires notified deductors to deduct tax “from the payment made or credited to the supplier” without using the expression “whichever is earlier”. This drafting variation raises an important interpretational issue i.e “Does the absence of the phrase “whichever is earlier” grant the deductor a discretion to choose the timing of deduction, or does the liability arise immediately on the occurrence of either of the two events, namely payment or credit?”

Distinction Between “Credit to the Supplier” and a Mere Provision/Accrual Entry

Particulars	Credit to the Supplier	Mere Provision / Accrual Entry
Nature of Entry	Credit made to the account of an identified supplier or creditor.	Credit made to a provision, accrued liability, or expense payable account.
Identification	Specific supplier or recipient is identified.	Supplier may not be identified or determinable at the time of entry.
Crystallization of Liability	Liability is ascertained and crystallized.	Liability is estimated, anticipated, or subject to future determination.
Creation of Debt	Creates a legally enforceable debt in favour of the supplier.	Does not create a debt in favour of any particular person.
Debtor-Creditor Relationship	Establishes a creditor-debtor relationship.	No creditor-debtor relationship comes into existence.
Legal	Supplier can legally claim payment.	No person can enforce payment merely on the basis of the provision.
Accounting Objective	Recognition of an actual payable to a specific party.	Compliance with accrual accounting and matching principles.
Certainty of Amount	Amount payable is generally determined or determinable.	Amount is often based on estimates and may undergo revision.
Trade Payable	Results in recognition of a trade payable.	Does not create a trade payable; only an accounting provision.
Supplier’s Right	Supplier acquires a corresponding right to receive payment.	No corresponding right arises in favour of any identified person.
Substance	Represents an actual obligation to pay a specified person.	Represents an anticipated or estimated expenditure.
Tax Significance	May trigger statutory consequences linked to payment or credit to a supplier/payee.	Mere provisioning, by itself, may not attract statutory consequences where the law requires credit to an identified supplier/payee.
Illustrative Entry	Dr. Expense A/c Cr. ABC Contractor A/c	Dr. Expense A/c Cr. Provision for Expenses A/c

Particulars	Credit to the Supplier	Mere Provision / Accrual Entry
Character of Liability	Present and enforceable liability.	Estimated, contingent, or unascertained liability.
Judicial Principle	Recognized as an actual credit to a creditor.	Cannot automatically be equated with credit to a supplier merely because expenditure has been accrued.

Statutory Comparison of Income Tax TDS & GST TDS

Under the Income Tax Act, the obligation to deduct tax generally arises: “at the time of credit of such income to the account of the payee or at the time of payment thereof, whichever is earlier.” The statutory language leaves no ambiguity regarding the timing of deduction.

The first event among credit or payment triggers the TDS obligation as per Income Tax Act.

Section 51(1) of the CGST Act provides that specified deductors shall deduct tax “from the payment made or credited to the supplier” of taxable goods or services or both”. Unlike the Income Tax Act, the legislature has omitted the expression “whichever is earlier.”

Comparative Position

Particulars	Income Tax TDS	GST TDS under Section 51
Statutory Language	“...credit or payment, whichever is earlier”	“...payment made or credited to the supplier”
Trigger Event	Explicitly earlier of credit or payment	Payment or credit
Scope for Literal Ambiguity	None	Potentially arguable
Legislative Objective	Early tax collection	Early tax collection and transaction monitoring
Discretion regarding timing	Not available	Question arises due to drafting difference

Practical Difficulty in Deducting GST-TDS at the Time of Credit

If GST-TDS were required to be deducted immediately upon credit of an amount to the supplier’s account, several practical issues arise:

- Government entities and notified deductors often create year-end provisions or accrual entries for expenses.
- At the time of provisioning, the exact date of payment may not be known.
- Deduction and deposit of GST-TDS would need to occur even before actual payment is released to the supplier.
- The reporting mechanism in Form GSTR-7 does

not expressly provide separate disclosure for provisional credit entries such as book adjustments, retention money, security deposits, advances, and other similar transactions

The Core Interpretational Question

The principal issue is whether the use of the word “or” between the expressions “payment made” and “credited to the supplier” creates:

1. A choice available to the deductor to select any convenient time for deduction; or
2. Two alternative triggering events, either of which independently attracts the TDS obligation.

At first glance, the omission of the words “whichever is earlier” may appear significant. However, statutory



interpretation requires examination not merely of isolated words but also of legislative intent, context and the objective of the provision.

Interpretation of the Word “Or”

One of the settled principles of statutory construction is that the word “**or**” is ordinarily construed in its **disjunctive sense** unless the context requires otherwise. A disjunctive interpretation means that each of the alternatives operates independently. In the landmark judgment of *Ranchhoddas Atmaram v. Union of India* (1961), the Supreme Court of India elucidated the principles governing the interpretation of the word “**or**” in statutory provisions. The Court observed that, in an **affirmative sentence**, the word “or” ordinarily bears its natural **disjunctive** meaning and denotes an alternative, so that compliance with any one of the prescribed conditions is sufficient. Conversely, where the provision is framed in a **negative form**, the negative force may extend to all the connected clauses, thereby producing a conjunctive effect. In such circumstances, the provision may be construed as requiring the simultaneous satisfaction of multiple conditions rather than treating them as independent alternatives. The decision thus highlights that the meaning of the word “or” is not rigid but depends upon the grammatical structure and legislative context in which it appears.

Therefore, where a statute provides that an obligation arises upon the occurrence of event “A” **or** event “B,” the occurrence of either event is generally sufficient to trigger the obligation. Applying this principle to Section 51, the words: “payment made or credited to the supplier” identify two distinct events i.e (1) Payment to the supplier; or (2) Credit of the amount to the supplier. Once either event occurs, the statutory condition for deduction stands fulfilled. The use of the word “or” therefore appears to describe alternative triggering points rather than conferring discretion upon the deductor.

Does the Provision Confer a Choice?

An important argument against discretionary interpretation is the absence of any language indicating

choice or election. If Parliament intended to permit deductors to choose the timing of deduction, the statute could have employed expressions such as:

- “at the option of the deductor”;
- “at any time before payment”; or
- “at such stage as may be chosen by the deductor.”

No such enabling language exists in Section 51. The provision merely specifies two objective events linked to a commercial transaction. Therefore, reading a discretionary power into the section would amount to importing words which the legislature itself chose not to include.

Legislative Objective of GST-TDS

The purpose of TDS under GST is not merely revenue collection. The mechanism also serves wider compliance objectives, including:

- creation of audit trails,
- monitoring of government payments,
- verification of supplies,
- prevention of tax leakage, and
- strengthening compliance discipline.

These objectives are best achieved when deduction occurs at the earliest point of the transaction cycle. If deductors are permitted to defer deduction despite an earlier occurrence of payment or credit, it could result in:

- inconsistent compliance practices,
- delayed tax collection,
- administrative uncertainty, and
- possible leakage of revenue.

Such a consequence would be contrary to the purpose underlying the TDS framework itself.

Purposive Interpretation

Courts generally prefer an interpretation which advances the object of legislation rather than one which defeats it. Applying the purposive rule of interpretation, Section 51 should be construed in a manner that promotes timely

deduction and collection of tax. Consequently, the expression: “payment made or credited to the supplier” should be understood as embodying the principle that deduction becomes obligatory immediately upon the occurrence of the first of the two events.

Practical Aspect of GST-TDS Compliance: Does Form GSTR-7 Indicate Deduction Only at the Time of Payment?

While a purposive interpretation of Section 51 of the CGST Act may suggest that the obligation to deduct tax arises upon the occurrence of either payment or credit to the supplier but the practical compliance requirements under GST appear to indicate a different approach.

The strongest support for this view emerges from the statutory return prescribed for reporting GST-TDS, namely **Form GSTR-7**. In the details of tax deducted, GSTR-7 requires the deductor to report the “**Amount paid to deductee on which tax deducted at source**”. This terminology focuses on the amount actually paid rather than merely credited through accounting entries.

Further support is found in the instructions accompanying Form GSTR-7, which specify that the amount liable for TDS, as reported in Column 5 of Table 3 and Columns 6 and 11 of Table 4, shall be computed **excluding the Central Tax, State Tax/Union Territory Tax, Integrated Tax, and Cess separately indicated in the invoice**. The reference to taxes reflected in the invoice necessarily presupposes the existence of an invoice and an ascertainable taxable value against which TDS is to be calculated.

Viewed from this perspective, the GST-TDS reporting mechanism appears to contemplate deduction with reference to an invoiced supply and the corresponding payment made thereagainst. Consequently, a mere year-end provision entry or book adjustment made in the absence of an underlying invoice may not readily fit within the reporting framework prescribed under Form GSTR-7. This lends support to the argument that the practical operation of the GST-TDS provisions is intended to be linked to actual payments against

invoiced supplies rather than to provisional accounting entries that do not crystallize into a payable amount supported by an invoice.

Accordingly, although Section 51 may, on a literal reading, be interpreted as triggering the deduction obligation upon either credit or payment, the structure of Form GSTR-7 and the accompanying instructions provide a strong contextual basis for contending that GST-TDS is designed to operate in relation to **payments made against invoices** and not merely upon the creation of accounting provisions unsupported by invoices.

Illustrative Example

OMC Ltd. awarded a service contract to ABC Ltd. for providing continuous supply of services. The services were rendered by ABC Ltd. during FY 2025-26. However, as per the contractual terms, ABC Ltd. became entitled to raise the invoice only in April 2026 and accordingly issued the tax invoice on 1 April 2026.

Since the services had already been received before the close of FY 2025-26, OMC Ltd., in compliance with applicable Indian Accounting Standards (Ind AS), recognized the corresponding expenditure in its books by creating a year-end provision as on 31 March 2026. Accordingly, the expense account was debited and the liability was credited to the account of ABC Ltd.

Further, since tax is deductible under the Income-tax Act at the time of credit or payment, whichever is earlier, OMC Ltd. also created the corresponding Income-tax TDS liability while passing the provision entry. The due date for deposit of Income-tax TDS relating to March 2026 is 30 April 2026.

Assume that the provision created on 31 March 2026 amounted to ₹1,00,00,000. At the time of creating the provision:

- No tax invoice had been issued by ABC Ltd.;
- The exact taxable value liable for GST-TDS was not available;
- The GST component chargeable on the supply was not ascertainable from any document;
- The amount required to be reported in Form GSTR-7 could not be accurately determined.



Subsequently, on 1 April 2026, ABC Ltd. issued the following invoice:

Particulars	Amount (₹)
Taxable Value	1,00,00,000
GST @ 18%	18,00,000
Total Invoice Value	1,18,00,000

Upon receipt of the invoice, OMC Ltd. became aware of:

1. The exact taxable value of supply;
2. The GST component separately chargeable;
3. The value on which GST-TDS was required to be deducted; and
4. The particulars required to be reported in Form GSTR-7.

If GST-TDS were required to be deducted merely because a provision entry was passed on 31 March 2026, the deductor would face considerable practical difficulty in determining the taxable value excluding GST, which is a mandatory requirement under Form GSTR-7. In contrast, once the invoice is received on 1 April 2026, GST-TDS can be accurately computed and deposited well before the due date prescribed for payment of tax.

Analysis of the Example

The above example demonstrates that the GST-TDS compliance framework is fundamentally dependent upon the availability of a tax invoice. The reporting requirements prescribed in Form GSTR-7 require identification of the taxable value exclusive of GST, which can ordinarily be determined only upon issuance of the tax invoice.

A year-end provision created for accounting purposes merely represents recognition of an accrued liability in accordance with financial reporting standards. Such a provision may not necessarily represent a finalized amount supported by a tax invoice and therefore may not readily fit into the statutory framework prescribed for GST-TDS compliance and reporting.

Accordingly, although Section 51 may be interpreted literally to trigger GST-TDS upon a credit to the

supplier's account, the design of Form GSTR-7 and the accompanying instructions provide a strong contextual basis for contending that GST-TDS is intended to operate in relation to invoiced supplies where the taxable value has crystallized and is capable of being reported accurately.

In the facts of the present case, a strong and commercially practical argument exists that GST-TDS should not be required to be deducted merely on the basis of the year-end provision created on 31 March 2026. Since the supplier's invoice was issued and received on 1 April 2026, well before the due date for depositing TDS relating to March 2026, the taxable value became ascertainable and GST-TDS could be deducted and reported on the basis of the actual invoice.

Therefore, while the literal wording of Section 51 referring to "payment or credit" may support a contrary interpretation, the compliance mechanism embodied in Form GSTR-7 lends substantial support to the view that GST-TDS is intended to be deducted with reference to an invoiced supply and not merely upon the creation of a provisional accounting entry unsupported by an invoice. This interpretation better harmonizes the statutory provision with the practical realities of GST-TDS calculation, reporting and compliance.

An additional practical difficulty arises even if the Department were to contend that the provision created by OMC Ltd. on 31 March 2026 was against a known and identifiable liability which subsequently materialized into Invoice dated 1 April 2026 issued by ABC Ltd.

For the sake of argument, if it is assumed that GST-TDS liability arose on 31 March 2026 itself upon crediting the amount to the account of ABC Ltd., OMC Ltd. would be required to report such deduction in Form GSTR-7 relating to the tax period of March 2026.

However, the reporting architecture of Form GSTR-7 does not adequately cater to such a situation. The return requires disclosure of invoice-specific particulars and taxable value on which tax has been deducted. In the present case, the invoice itself came into existence only on 1 April 2026, i.e., in the subsequent tax period.

Consequently, if GST-TDS is regarded as deductible in March 2026, the deductor would face the following practical difficulties:

a. Absence of Invoice on the Date of Deduction

On 31 March 2026, no tax invoice existed. Therefore, the deductor would not possess the invoice particulars necessary for accurate determination and reporting of the transaction.

b. Mismatch Between Tax Period and Invoice Date

The GST Department may argue that the provision pertains to an identifiable contractual liability and therefore constitutes a credit to the supplier. However, reporting a tax deduction in the March 2026 return with reference to an invoice dated 1 April 2026 would result in a mismatch between:

- the period in which deduction is allegedly triggered; and
- the period to which the supporting invoice belongs.

c. System and Return Level Limitations

The deductor would effectively be required to report a transaction in the March 2026 GSTR-7 based on a document that legally came into existence only in April 2026. Such reporting is inconsistent with the invoice-based structure of GST compliance and may create reconciliation issues for both the deductor and deductee.

d. Difficulty in Credit Reflection to the Deductee

GST-TDS deducted through GSTR-7 gets reflected in the electronic cash ledger of the deductee. If the deduction is linked to a period preceding the invoice itself, avoidable reconciliation and matching issues may arise in the deductee's records.

In the present case, OMC Ltd. created a provision on 31 March 2026 and ABC Ltd. issued the invoice on 1 April 2026. If the Department's interpretation is accepted, OMC Ltd. would be required to:

- deduct GST-TDS in March 2026;
- file GSTR-7 for March 2026; and
- report a transaction that is supported only by an invoice dated 1 April 2026.

This leads to an anomalous situation where the statutory return for March 2026 would effectively require reporting of a subsequent period invoice, a result which does not appear to have been contemplated by the GST compliance framework.

Therefore, even assuming that Section 51 can be interpreted literally to cover a vendor-specific provision, the practical operation of Form GSTR-7 strongly suggests that GST-TDS is intended to be deducted and reported with reference to an existing tax invoice and ascertainable taxable value. The inability to appropriately report a subsequent-period invoice in a previous-period GSTR-7 lends further support to the view that GST-TDS should be deducted upon receipt/accounting of the invoice dated 1 April 2026 and not merely upon creation of the year-end provision on 31 March 2026.

Conclusion

Section 51 of the Central Goods and Services Tax Act, 2017 mandates specified entities to deduct tax at source (GST-TDS) from payments made to suppliers of taxable goods or services. Unlike the corresponding TDS provisions under the Income Tax Act, which explicitly prescribe deduction at the time of credit or payment "whichever is earlier", Section 51 merely states that tax shall be deducted from the amount "paid or credited to the supplier." The absence of the phrase "whichever is earlier" has given rise to an interpretational issue as to whether GST-TDS becomes applicable upon the occurrence of either event independently or whether the deductor retains discretion regarding the timing of deduction.

A textual and purposive analysis suggests that the use of the word "or" denotes alternative triggering events and does not confer any discretionary choice on the deductor. Accordingly, where an amount is either paid to, or credited in favour of, an identifiable supplier, the obligation to deduct tax would ordinarily arise. However, practical difficulties emerge in cases involving year-end provisions and accrual entries where no invoice has been received and the supplier-specific liability has not crystallized. Such situations become particularly significant because the Explanation to Section 51 links the taxable value for deduction to the value excluding GST components indicated in the



invoice, while Form GSTR-7 appears to contemplate reporting of tax deducted on amounts actually paid to the deductee.

In the absence of a specific statutory clarification or authoritative judicial pronouncement, divergent interpretations remain possible. While a strict legal interpretation may support deduction upon the first occurrence of payment or supplier-specific credit, the GST compliance framework tends to support deduction in the context of identified supplies backed by invoices and corresponding payments. This interpretational uncertainty has resulted in varying practices among Government departments, public sector undertakings, local authorities and other notified deductors.

Suggestions to the Government

To eliminate ambiguity and ensure uniform compliance across the country, the Government may consider the following measures:

1. **Issue a CBIC Circular/Clarification** clearly specifying whether GST-TDS is required to be deducted:
 - upon booking of liability to a supplier;
 - upon mere provisioning entries;
 - or only at the stage of payment against an invoice.
2. **Legislative Amendment to Section 51** may be considered to expressly state:
 - “at the time of payment or credit to the supplier, whichever is earlier”, if the legislative intent is to mirror the Income Tax TDS mechanism; or
 - “at the time of payment to the supplier by actual payment or book adjustment”, if the intent is to align GST-TDS with the present compliance framework.
3. **Clarify the Treatment of Year-End Provisions** by issuing detailed guidance on whether GST-TDS is applicable where:
 - no invoice has been received; or
 - the expenditure is booked through a general provision account.
4. **Revise Form GSTR-7 Instructions** to explicitly address supplier-credit scenarios, if deduction is intended to occur prior to actual payment.
5. **Clear Mechanism for Reporting Credit Notes** as the return does not clearly prescribe the procedure for reporting credit notes issued by suppliers after TDS deduction. Specific fields should be introduced to report credit notes and corresponding reduction in taxable value and TDS. GSTR-7 should permit reporting of negative values arising from credit notes, contract cancellations, excess TDS deduction, or subsequent revisions. The present system does not adequately address such situations, resulting in practical difficulties
6. Detailed **guidance** should be issued on the timing of TDS deduction **in cases of advances, book adjustments, retention money**, as TDS liability arises when payment is made or amount is credited to the supplier's account.
7. GSTR-7 should permit **amendment of taxable value** without requiring modification of TDS details in cases where the TDS amount deducted, deposited, and accepted by the deductee remains correct. This would address practical difficulties arising from subsequent value adjustments and ensure accurate reporting.

Concluding Remark

The present drafting of Section 51 leaves room for differing interpretations regarding the timing of GST-TDS deduction. Considering the substantial number of Government and public-sector entities obliged to comply with the provision, a clear legislative or administrative clarification would promote certainty, reduce disputes, improve compliance, and prevent avoidable litigation. A definitive clarification by CBIC would serve the interests of both tax administration and taxpayers by ensuring a uniform and legally sustainable implementation of the GST-TDS mechanism.

NOTIFICATION

INDIRECT TAX

Notification No. 40/2026-Central Excise

New Delhi, the 3rd August, 2026

G.S.R...(E).- In exercise of the powers conferred by Section 5A of the Central Excise Act, 1944 (1 of 1944) read with Section 147 of Finance Act, 2002 (20 of 2002), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 06/2026-Central Excise, dated the 26th March, 2026, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 205(E), dated the 26th March, 2026, namely:-

In the said notification, in the Table,

- (i) against serial number 1, in column (4), for the entry, the entry “₹. 3.5 per litre” shall be substituted;
 - (ii) against serial number 2, in column (4), for the entry, the entry “₹. 24 per litre” shall be substituted.
2. This notification shall come into force on the date of its publication in the Official Gazette.

Notification No. 41/2026-Central Excise

New Delhi, the 3rd August, 2026

G.S.R...(E).- In exercise of the powers conferred by Section 5A of the Central Excise Act, 1944 (1 of 1944) read with Section 147 of Finance Act, 2002 (20 of 2002), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 08/2026-Central Excise, dated the 26th March, 2026, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 207 (E), dated the 26th March, 2026, namely:-

In the said notification, in the Table, against serial number 1, in column (4), for the entry, the entry “₹. 22 per litre” shall be substituted.

2. This notification shall come into force on the date of its publication in the Official Gazette.

Notification No. 42/2026-Central Excise

New Delhi, the 3rd August, 2026

G.S.R...(E).- In exercise of the powers conferred by Section 5A of the Central Excise Act, 1944 (1 of 1944) read with Section 112 of Finance Act, 2018 (13 of 2018), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 11/2026-Central Excise, dated the 26th March, 2026, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 210 (E), dated the 26th March, 2026, namely:-

In the said notification, in the Table, against serial number 2, in column (4), for the entry, the entry “₹. 1.5 per litre” shall be substituted.

2. This notification shall come into force on the date of its publication in the Official Gazette.

Notification No. 43/2026-Central Excise

New Delhi, the 14th August, 2026

G.S.R... (E).- In exercise of the powers conferred by Section 5A of the Central Excise Act,

1944 (1 of 1944) read with Section 147 of Finance Act, 2002 (20 of 2002), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.



06/2026-Central Excise, dated the 26th March, 2026, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 205(E), dated the 26th March, 2026, namely:- In the said notification, in the Table, against serial number 1, in column (4), for the entry, the entry “Nil” shall be substituted.

2. This notification shall come into force with effect from 15th August, 2026.

Notification No. 44/2026-Central Excise

New Delhi, the 14th August, 2026

G.S.R...(E).- In exercise of the powers conferred by Section 5A of the Central Excise Act, 1944 (1 of 1944) read with Section 147 of Finance Act, 2002 (20 of 2002), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 08/2026-Central Excise, dated the 26th March, 2026, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 207 (E), dated the 26th March, 2026, namely:-

In the said notification, in the Table, against serial

number 1, in column (4), for the entry, the entry “₹. 19.5 per litre” shall be substituted.

2. This notification shall come into force with effect from 15th August, 2026.

Notification No. 45/2026-Central Excise

New Delhi, the 14th August, 2026

G.S.R...(E).- In exercise of the powers conferred by Section 5A of the Central Excise Act, 1944 (1 of 1944) read with Section 112 of Finance Act, 2018 (13 of 2018), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 11/2026-Central Excise, dated the 26th March, 2026, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 210 (E), dated the 26th March, 2026, namely:-

In the said notification, in the Table, against serial number 2, in column (4), for the entry, the entry “Nil” shall be substituted.

2. This notification shall come into force with effect from 15th August, 2026.

DIRECT TAX

NOTIFICATION

New Delhi, the 14th August, 2026

INCOME-TAX

G.S.R. 732(E).— In exercise of the powers conferred by section 143 of the Finance Act, 2026 (4 of 2026), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.— (1) These rules may be called the Foreign Assets of Small Taxpayers- Disclosure Scheme Rules, 2026.
- (2) They shall come into force on the 16th day of August, 2026.
2. Definitions.— (1) In these rules, unless the context otherwise requires,—

- (a) “Act” means the Finance Act, 2026 (4 of 2026);
- (b) “Indexed cost of acquisition” shall have the same meaning as assigned to it in section 48 of the Income-tax Act, 1961 (43 of 1961);
- (c) “Form” means a Form appended to these rules;
- (d) “section” means a section of the Finance Act, 2026 (4 of 2026) in Chapter IV; and
- (e) “valuation date” means the 31st day of March, 2026.
- (2) Words and expressions used in these rules and not defined but defined in the Act or the Income-tax Act, 1961 (43 of 1961) or the Income-tax Act, 2025 (30 of 2025) or the Black Money (Undisclosed Foreign Income

and Assets) and Imposition of Tax Act, 2015 (22 of 2015) shall have the meanings respectively assigned to them in those Acts.

- (3) For the purposes of the Act and these rules, “income-tax authority” shall mean the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be.
 - (4) For the purposes of the Act and these rules, “last date” shall mean the 31st day of December, 2026.
3. Fair market value.— (1) For the purposes of clause (1) of sub-section (1) of section 131 of the Act, the fair market value of the assets shall be determined in the following manner, namely:—
- (a) value of bullion, jewellery or precious stone shall be the higher of,—
 - (i) its cost of acquisition; and
 - (ii) the price that the bullion, jewellery or precious stone shall ordinarily fetch if sold in the open market on the valuation date for which the assessee may obtain a report from a valuer recognised by the Government of a country or specified territory outside India or any of its agencies for the purpose of valuation of bullion, jewellery or precious stone under any regulation or law:

Provided that the indexed cost of acquisition shall be deemed to be the fair market value where the valuation as per sub-clause (ii) is not carried out;

- (b) valuation of archaeological collections, drawings, paintings, sculptures or any work of art (hereinafter referred to as artistic work) shall be the higher of,—
 - (i) its cost of acquisition; and
 - (ii) the price that the artistic work shall ordinarily fetch if sold in the open market on the valuation date for which the assessee may obtain a report from a valuer recognised by the Government of a country or specified territory outside India or any of its agencies for the purpose of valuation of artistic work under any

regulation or law:

Provided that the indexed cost of acquisition shall be deemed to be the fair market value where the valuation as per sub-clause (ii) is not carried out;

- (c) valuation of shares and securities,—
 - (i) the fair market value of quoted shares and securities shall be the higher of,—
 - (I) its cost of acquisition; and
 - (II) the price as determined in the following manner, namely:—
 - (A) the average of the lowest and highest price of such shares and securities quoted on any established securities market on the valuation date; or
 - (B) where on the valuation date there is no trading in such shares and securities on any established securities market, average of the lowest and highest price of such shares and securities on any established securities market on a date immediately preceding the valuation date when such shares and securities were traded on such securities market;
 - (ii) the fair market value of unquoted equity shares shall be the higher of,—
 - (I) its cost of acquisition; and
 - (II) the value, on the valuation date, of such equity shares as determined in the following manner, namely:—

the fair market value of unquoted equity shares = $\frac{A}{B}$ where, A = book value of all the assets (other than bullion, jewellery, precious stone, artistic work, shares, securities and immovable property) as reduced by,—
 - (i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any, and
 - (ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

B = fair market value of bullion, jewellery, precious stone, artistic work, shares, securities



and immovable property as determined in the manner provided in this rule;

L = book value of liabilities, but not including the following amounts, namely:—

- (i) the paid-up capital in respect of equity shares;
- (ii) the amount set apart for payment of dividends on preference shares and equity shares;
- (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
- (iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
- (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;
- (vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;

PE = total amount of paid-up equity share capital as shown in the balance-sheet; PV = the paid-up value of such equity shares:

Provided that the indexed cost of acquisition shall be deemed to be the fair market value where the valuation as per item (II) is not carried out;

- (iii) the fair market value of an unquoted share and security other than equity share in a company shall be the higher of,—
 - (I) its cost of acquisition; and
 - (II) the price that the share or security shall ordinarily fetch if sold in the open market on the valuation date for which the assessee may obtain a report from a valuer recognised by the Government of a country or specified territory outside India or any of its agencies for the purpose of valuation of share and security under any regulation or law:

Provided that the indexed cost of acquisition shall be deemed to be the fair market value

where the valuation as per item (II) is not carried out;

- (d) the fair market value of an immovable property shall be the higher of,—
 - (i) its cost of acquisition; and
 - (ii) the price that the property shall ordinarily fetch if sold in the open market on the valuation date for which the assessee may obtain a valuation report from a valuer recognised by the Government of a country or specified territory outside India in which the property is located or any of its agencies for the purpose of valuation of immovable property under any regulation or law:

Provided that the indexed cost of acquisition shall be deemed to be the fair market value where the valuation as per sub-clause (ii) is not carried out;

- (e) value of an account with a bank shall be, -
 - (i) the sum of all the deposits made in the account with the bank from the date of opening of the account till the valuation date; or
 - (ii) where a declaration of such account has been made under Chapter VI of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015) and the value of the account as computed under sub-clause (i) has been charged to tax and penalty under that Chapter, the sum of all the deposits made in the account with the bank since the date of such declaration:

Provided that where any deposit is made from the proceeds of any withdrawal from the account, such deposit shall not be taken into consideration while computing the value of the account. Illustration 1:

An assessee had opened a foreign bank account (BA) in 2010. The following deposits and withdrawals were made in BA since then. Assuming that the withdrawals made were later re-deposited into the BA, the value of the asset shall be calculated as follows.

Date	Deposits	Withdrawals	Calculation of value of asset
01.04.2010	\$ 1,000	-	\$ 1,000
01.06.2011	\$ 500	-	\$ 500
01.08.2011	-	\$ 700	-
01.04.2012	\$ 500	-	-
01.08.2013	\$ 500	-	\$ 300
01.04.2019	\$2,500	-	\$ 2,500
01.06.2020	-	\$ 400	-
01.09.2021	\$ 1,000	-	\$ 600
01.05.2024	-	\$ 500	-
	TOTAL		\$ 4,900

The value of this asset, that is, \$ 4,900 will be converted into Rupees as on 31st March, 2026 for the purpose of valuation under these rules.

Illustration 2

If the above assessee in Illustration 1 had declared the deposits made in the above account under Chapter VI

of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), the value of the asset shall be the sum of the deposits made since such date. In that case, the value of the asset shall be calculated as follows, assuming that the withdrawals made were later re-deposited into the BA.

Date	Deposits	Withdrawals	Calculation of value of asset
01.04.2019	\$2,500	-	\$ 2,500
01.06.2020	-	\$ 400	-
01.09.2021	\$ 1,000	-	\$ 600
01.05.2024	-	\$ 500	-
	TOTAL		\$ 3,100

The value of this asset that is \$ 3,100 will be converted into Rupees as on 31st March, 2026 for the purpose of valuation under these rules.

(f) value of an interest of a person in a partnership firm or in an association of persons or a limited liability partnership of which he is a member shall be the sum total of the amount allocated to a partner or member determined in the following manner:—

- the net asset of the firm, association of persons or limited liability partnership on the valuation date shall first be determined;
- the portion of the net asset of the firm, association of persons or limited liability partnership as is equal to the amount of its capital shall be allocated among its partners

or members in the proportion in which capital has been contributed by them;

- the residue of the net asset shall be allocated among the partners or members in accordance with the agreement of partnership or association for distribution of assets in the event of dissolution of the firm or association, or, in the absence of such an agreement, in the proportion in which the partners or members are entitled to share profits; Explanation.—For the purposes of this clause, the net asset of the firm, association of persons or limited liability partnership shall be $(A + B - L)$, which shall be determined in the manner provided in sub-clause (ii) of clause (c);



(g) valuation of any other asset shall be the higher of,—

- (i) its cost of acquisition or the amount invested; and
- (ii) the price that the asset would fetch if sold in the open market on the valuation date in an arm's-length transaction:

Provided that the indexed cost of acquisition shall be deemed to be the fair market value where the valuation as per sub-clause (ii) is not carried out.

(2) Notwithstanding anything contained in sub-rule (1), where an asset (other than a bank account) was transferred before the valuation date, the fair market value of such asset shall be higher of its cost of acquisition and the sale price:

Provided that where such asset was transferred without consideration or inadequate consideration before the valuation date, the fair market value of the asset shall be higher of its cost of acquisition and the fair market value on the date of transfer.

(3) Where a new asset has been acquired or made out of consideration received on account of transfer of an old asset or withdrawal from a bank account, then the fair market value of the old asset or the bank account, as the case may be, determined in accordance with sub-rule (1) or sub-rule (2) shall be reduced by the amount of the consideration invested in the new asset.

Illustration 1:

A house property (H1) located outside India was bought in 2014 for twenty lakh rupees. It was sold in 2017 for twenty-five lakh rupees which were deposited in a foreign bank account (BA). In 2018 another house property (H2) was bought for thirty lakh rupees. The investment in H2 was made through withdrawal from BA. H2 has not been transferred before the valuation date and its value on the valuation date is fifty lakh rupees. Assuming that the value of BA as computed under clause (e) of sub-rule (1) is seventy lakh rupees, the fair market value (FMV) of the assets shall be as below:

FMV of H1: (Higher of ₹ 20 lakh and 25 lakh) - ₹ 25 lakh (invested in BA) = Nil FMV of BA: ₹ 70 lakh - ₹ 30 lakh (invested in H2) = ₹ 40 lakh

FMV of H2: (Higher of ₹ 30 lakh and 50 lakh) = ₹ 50 lakh

Illustration 2:

Undisclosed foreign income (FI) of seventy lakh rupees was earned in 2022. An immovable property (FA) located outside India was bought for sixty lakh rupees in 2023. The investment in FA was made through the utilisation of FI. FA has not been transferred before the valuation date and its value on the valuation date is eighty lakh rupees. Given that the value of FI as computed is seventy lakh rupees, the fair market value (FMV) / value of the asset and income shall be as below:

Value of FI: ₹ 70 lakh - ₹ 60 lakh (invested in FA) = ₹ 10 Lakh FMV of FA: (Higher of ₹ 60 lakh and 80 lakh) = ₹ 80 lakh.

(4) The fair market value of an asset determined in a currency which is one of the permitted currencies designated by the Reserve Bank of India under the Foreign Exchange Management (Deposit) Regulations, 2016, shall be converted into Indian currency as per the reference rate of the Reserve Bank of India on the valuation date.

(5) Where the fair market value of an asset is determined in a currency other than one of the permitted currencies designated by the Reserve Bank of India, then, such value shall be converted into United States Dollar on the valuation date as per the rate specified by the Central Bank of the country or jurisdiction in which the asset is located and such value in United States Dollar shall be converted into Indian currency as per the reference rate of the Reserve Bank of India on the valuation date:

Provided that where the Central Bank of the country or jurisdiction in which the asset is located does not specify the rate of conversion from its local currency to United States Dollar then such rate shall be the one as specified by any other bank regulated under the laws of that country or jurisdiction.

Explanation 1.—For the purposes of this rule,—

- (a) “established securities market” means an exchange that is officially recognised and supervised by a Governmental entity in which the market is located and that has a meaningful annual value of shares traded on the exchange;
- (b) “meaningful annual value of shares traded on

the exchange” with respect to an exchange means it has an annual value of shares traded on the exchange (or a predecessor exchange) exceeding one billion United States Dollar during each of the three calendar years immediately preceding the valuation date;

(c) “meaningful volume of trading on an on-going basis” with respect to each class of shares means,—

- (i) trades in each such class are effected, other than in de minimis quantities, on one or more established securities markets on at least sixty business days during the prior calendar year; and
- (ii) the aggregate number of shares in each such class that are traded on such market or markets during the prior year are at least ten per cent. of the average number of shares outstanding in that class during the prior calendar year;

(d) “quoted share or security” means the share or security which has a meaningful volume of trading on an on going basis on an established securities market and is regularly quoted by dealers where they actively do offer to, and in fact do, purchase the share from, and sell the share to, customers who are not related to the dealer in the ordinary course of a business;

(e) “unquoted share and security”, in relation to a share or security, means a share or security which is not a quoted share or security.

4. Amount payable by declarant.— Where a declarant files a declaration to the income-tax authority under section 132 of the Act, in respect of assets or income as specified in column (2) of the Table in section 133 of the Act, the amount payable by the declarant shall be as specified in column (3), subject to the conditions in column (4) thereof.

Illustration 1:

- An undisclosed foreign bank account (BA) exists as on 31st March, 2026. The value of BA on that date is ₹60 lakh. The assessee has also earned undisclosed foreign income (FI) of ₹20 lakh during earlier previous years.
- The aggregate value of the undisclosed asset on

valuation date and undisclosed foreign income is BA+FI (₹60 lakh + ₹20 lakh = ₹80 lakh), which does not exceed ₹1 crore. Hence, the case is covered under serial number 1 of Table in section 133 of the Act.

- Computation of tax payable:

- (i) Tax on undisclosed asset = 30% of ₹60 lakh = ₹18 lakh
- (ii) Tax on undisclosed foreign income = 30% of ₹20 lakh = ₹6 lakh
Aggregate tax = ₹18 lakh + ₹6 lakh = ₹24 lakh

- Computation of penalty payable:

100% of aggregate tax = ₹24 lakh

- Total amount payable under section 133 of the Act is; ₹24 lakh (tax) + ₹24 lakh (penalty) = ₹48 lakh.

Illustration 2:

- A plot of land located outside India (FA) was acquired in 2015 from income earned abroad when the assessee was a non-resident. After becoming resident in India, the assessee failed to disclose FA in the relevant Schedule of the return of income.
- The value of FA on the valuation date is ₹3 crore (which does not exceed ₹5 crore). Hence, the case is covered under serial number 2 of Table in section 133 of the Act.
- Amount payable = fee of ₹1 lakh.

Illustration 3:

- Certain units of Mutual Fund (MF) abroad were purchased in 2020 from income offered to tax in India when the assessee was a resident. Subsequently, the assessee failed to disclose MF in the relevant Schedule of the return of income. The value of MF on the valuation date is ₹2.5 crore.
- The assessee also acquired certain quoted shares and securities (QS) on the New York stock exchange in 2022.

The value of QS on the valuation date is ₹4 crore.

- The total value of both these assets acquired in year 2020 and 2022, that is, MF + QS is ₹ 6.5 crore which exceeds ₹5 crore. Hence, the case is not covered under the Table in section 133 of the Act and the assessee is not eligible to declare under this scheme.



5. Declaration of asset or income located outside India.– (1) A declaration in respect of any asset or income referred to in section 133 of the Act shall be made electronically in Form 1 to the income-tax authority such that the aggregate value of undisclosed income and undisclosed assets declared under section 133 (Table: Sl. No 1) shall not exceed ₹ 1 crore and the aggregate value of undisclosed assets declared under section 133 (Table: Sl. No 2) shall not exceed ₹ 5 crore.

(2) For the purposes of sub-section (3) of section 134 of the Act, where the fair market value of

any asset (other than a bank account) declared in Form 1 is at variance with the value determined by the Assessing Officer or any other income-tax authority during the course of any assessment or inquiry proceedings, such declaration shall be deemed not to be invalid or void on the ground of misrepresentation, suppression of facts, or furnishing of false material particulars, only on account of such variance, if such variance does not exceed twenty per cent. of the fair market value so declared.

Illustration 1:

S. No.	Nature of Undisclosed Item(s)	Year-wise Details (Illustrative)	Aggregate Threshold	Applicable Threshold	Eligibility to Declare
1	Asset + Income	Foreign bank account (Asset) acquired in FY 2021-22: ₹55 lakh (value on 31.03.2026); Foreign income earned in FY 2019-20: ₹25 lakh	₹80 lakh	₹1 crore	Eligible to declare
2	Asset + Income	Foreign property (Asset) acquired in FY 2020-21: ₹90 lakh (value on 31.03.2026); Foreign income earned in FY 2018-19: ₹30 lakh	₹1.20 crore	₹1 crore	Not eligible to declare
3	Income + Income	Foreign income earned in FY 2017-18: ₹40 lakh; Foreign income earned in FY 2020-21: ₹50 lakh	₹90 lakh	₹1 crore	Eligible to declare
4	Income + Income	Foreign income earned in FY 2016-17: ₹70 lakh; Foreign income earned in FY 2019-20: ₹80 lakh	₹1.50 crore	₹1 crore	Not eligible to declare

Illustration 2:

S. No.	Nature of Undisclosed Item(s)	Year-wise Details (Illustrative)	Aggregate Threshold	Applicable Threshold	Eligibility to Declare
1	Asset + Asset	Foreign mutual fund acquired in FY 2020-21: ₹2 crore (value on 31.03.2026); Foreign shares acquired in FY 2022-23: ₹2.5 crore (value on 31.03.2026)	₹4.5 crore	₹5 crore	Eligible to declare

S. No.	Nature of Undisclosed Item(s)	Year-wise Details (Illustrative)	Aggregate Threshold	Applicable Threshold	Eligibility to Declare
2	Asset + Asset	Foreign immovable property acquired in FY 2018-19: ₹3 crore (value on 31.03.2026); Foreign securities acquired in FY 2021-22: ₹3.5 crore (value on 31.03.2026)	₹6.5 crore	₹5 crore	Not eligible to declare

6. Order by income-tax authority.— The income-tax authority shall pass an order referred to in sub-section (1) of section 135 electronically in Form 2, in respect of payment of amount payable by the declarant, along with penalty or fee.

7. Intimation of payment.— The declarant shall make the payment of the amount determined in the order passed by the income-tax authority under sub-section (1) of section 135 electronically, and the intimation of such payment made, including interest, if any, shall be furnished along with proof of payment to the income-tax authority electronically in Form 3.

Illustration:

An undisclosed foreign bank account (FA) exists as on 31st March, 2026. The value of FA on that date is ₹80 lakh. Therefore, the total amount payable under section 133 (Table: Sl. No 1) of the Act is ₹48 lakh.

Assume the order of the income-tax authority under sub-section (1) of section 135 is passed on 22nd September, 2026.

End of the month of order = 30th September, 2026.

(i) Payment within two months:

Last date without interest = 30th November, 2026.

Therefore, if the assessee pays on 25th November, 2026 the amount payable is ₹48 lakh.

(ii) Payment after two months but within additional period:

(A) Payment on 17th December, 2026-

Delay = 1 month (or part thereof) beyond 30th November, 2026.

Interest = 1% of ₹48 lakh = ₹48,000. Total amount payable = ₹48,48,000.

(B) Payment on 23rd January, 2026-

Delay counted = 2 months (or part thereof) beyond 30th November, 2026.

Interest = 2% of ₹48 lakh = ₹96,000. Total amount payable = ₹48,96,000.

(C) Payment on 5th February, 2026-

Maximum additional period allowed is four months from 30th September, 2026, that is, up to 31st January, 2027. Since payment is beyond the permitted period, benefit of the Scheme is not available.

8. Order certifying payment.— The income-tax authority shall pass an order, certifying the validity of the declaration in Form 1 and payment by the declarant for the purposes of section 139 of the Act, within one month from the end of the month of the submission of intimation of payment electronically in Form 4.

9. Laying down of procedure, formats and standards.— (1) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down the data structure, standards and procedure of furnishing and verification of the declaration and undertaking, —

(i) under digital signature, if the return of income is required to be furnished under digital signature; or

(ii) through electronic verification code in a case not covered under clause (i),

for declaration in Form 1 under rule 5, order in Form 2 under rule 6, intimation of payment in



Form 3 under rule 7 and order certifying validity of declaration and payment in Form 4 under rule 8, including modification in format, if required, to make it compatible for furnishing electronically.

(Systems) shall also be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said Forms.

- (2) The Principal Director General of Income-tax (Systems) or the Director General of Income- tax

Entire notification can be read at: <https://www.incometaxindia.gov.in/documents/d/guest/notification-no-114-2026-pdf>

CIRCULAR

INDIRECT TAX

Circular No. 35 /2026-Customs

Dated: 6th August, 2026

Subject: Standard Operating Procedure (SOP) for clearance of imported goods through Foreign Post Offices under the Postal Import Regulations, 2025 – reg

In order to facilitate Customs clearance of postal imports through a technology-driven and risk-based system, CBIC has developed the FPO Import Application for processing personal postal imports in accordance with the framework envisaged under Postal Import Regulations 2025 issued vide Notification No. 18/2025 - Customs (N.T.) dated 28th March 2025. The objective is to provide a uniform regulatory and procedural framework for assessment and clearance of imported goods through Foreign Post Offices (FPOs).

2. The FPO Import Application for personal imported goods, which constitute the predominant share of postal imports handled through FPOs has been deployed and is presently operational at Bengaluru, Kochi, Mumbai FPO, APSO Mumbai, Kolkata, Ahmedabad, Chennai and Delhi. The FPO Import application has also been integrated with the Risk Management System (RMS), enabling automated risk assessment and system-based facilitation of postal import articles.
3. It has also been observed that jurisdictional field formations have issued Public notices/SOPs to facilitate Customs clearance at their respective FPOs. While such instructions address location-specific operational requirements, there is a need to ensure uniformity in Customs procedures across all FPOs.

4. In view of the above, the following procedure is prescribed for processing of personal imported goods at FPOs;

4.1. Receipt and Presentation of Personal Postal Articles

The Postal Authority shall electronically present the list of imported postal articles along with the postal articles, to the proper officer on the day of arrival at the Foreign Post Office. At present, the requisite information is provided electronically by Postal Authority which is received by FPO Import application under “Article Arrival Info” tab. On receipt of these details, the proper officer shall ensure that the postal articles are taken up for screening, inspection and further Customs processing without undue delay.

4.2. Customs Assessment and Examination

- (i) Wherever Electronic Advance Data (EAD) is available, the proper officer shall undertake assessment of imported postal articles in a risk-based manner based on RMS instructions, prior to the arrival of the postal articles. In other cases, assessment shall be undertaken after presentation of the postal articles by the Postal Authority.
- (ii) RMS selects postal articles for assessment and/or examination based on risk parameters, taking into account the declaration data accompanying the postal articles. Physical examination shall be restricted to consignments selected by RMS or otherwise identified on the basis

of intelligence, regulatory requirements or discrepancies noticed during processing. However, in case of RMS facilitated articles, specific reason(s) for physical examination have to be mentioned in the scan report column provided in the FPO Import Application.

- (iii) Where the proper officer considers that additional information or supporting documents are required for assessment, a Document Call Letter (D-Call Letter) shall be issued electronically through the FPO Import Application. The D-Call Letter shall be communicated to the importer or authorised agent through the registered e-mail address available in the system. In cases where electronic communication is not feasible or remains undelivered, the D-Call Letter may also be issued through the manual mode.
- (iii) The D-Call Letter should clearly specify the information or documents required for assessment. Queries should be specific, relevant and, as far as practicable, consolidated into a single communication. Repeated or piecemeal requisition of documents should ordinarily be avoided.
- (iv) On receipt of the required documents or clarification, the proper officer shall examine the same and finalise the assessment expeditiously. Responses received may be processed and appropriately recorded in the system.
- (v) Where no response is received within 30

days of the date of receipt of the D-call letter, or the information furnished is inadequate for assessment, the proper officer may proceed to assess the goods on the basis of the declaration and other information available on record, in accordance with the provisions of the Customs Act, 1962.

- (vi) Field formations shall periodically monitor the pendency of assessments to ensure timely clearance of postal articles and to minimise delays.

4.3 Clearance of Personal Postal Articles

Upon completion of assessment and other Customs formalities, the proper officer shall issue an order permitting clearance of the imported postal article through FPO Import Application. The clearance order shall be communicated electronically to the Postal Authority. In case of non-EAD articles, the proper officer may issue the clearance order manually until electronic processing is enabled for such articles in FPO Import Application. The Postal Authority shall ensure that no postal article is delivered unless such clearance order has been issued and the applicable Customs duty has been paid or realised in accordance with the prescribed procedure.

- 5. Processing of non-personal/commercial imported goods shall continue to be governed by the existing procedure prescribed under Circular No. 14/2018-Customs dated 04.06.2018.
- 6. Difficulties, if any, may be brought to the notice of the Board.

JUDGEMENT

INDIRECT TAX

Writ cannot permit revised GST returns or waive statutory interest, penalty, or limitation as contract terms do not override statutory mandate: HC

Facts of the Case : State of Karnataka vs. Sudhanva

Engineers and Builders - [2026] (Karnataka)

The assessee, a sole proprietorship engaged in execution of public works, had entered into a works contract for government works. After the introduction of GST, it raised invoices charging GST at 12%. The GST authority, however, alleged that GST was payable at 18%



and issued a show cause notice, which culminated in a demand along with interest and penalty. The assessee thereafter obtained GST registration. Aggrieved by the demand, the assessee filed a writ petition seeking directions to the employer to pay the GST dues to the State or reimburse the same and also sought permission to file returns or amended returns without interest, penalty or limitation. The learned Single Judge granted the relief sought. The order of the learned Single Judge was carried in appeal before the Division Bench of the High Court. The matter was accordingly placed before the High Court.

Decision of the Case : The High Court held that the entitlement to reimbursement of incremental tax arose solely from the contract and could not override the statutory scheme under the GST enactments. It further held that the liability to pay GST had to be determined strictly in accordance with the statute and not on the basis of the contractual terms. The High Court held that no writ directions could be issued permitting the filing of revised returns contrary to the statute or granting waiver of statutory interest, penalty or relaxation of limitation for filing returns or revised returns. Accordingly, it set aside the impugned directions issued by the learned Single Judge.

Upload on GST portal alone is not valid service for limitation if assessee is illiterate: HC

Facts of the Case : Amar Coop LC Society Ltd. vs. State of Haryana - [2026] (Punjab & Haryana)

A show cause notice was issued to the petitioner. As no reply was filed, an ex parte order-in-original came to be passed, which was subsequently followed by a rectification order. The petitioner's appeal against the said order was dismissed as time-barred. The petitioner thereafter filed the present writ petition. It was asserted that, being an illiterate person, no reply could be filed as the engaged representative failed to take the necessary steps and that there was no knowledge that the case had been selected for scrutiny or that any demand had been raised. The petitioner further contended that the show cause notice and the consequential orders had been served only by uploading them on the GST Common Portal, which did not constitute valid service. The department, however, relied upon the retrospective amendment made by the Finance Act, 2022, contending

that all functions under the CGST Rules could also be performed on the GST Common Portal and that service through the Common Portal was therefore valid. The matter was placed before the High Court.

Decision of the Case : The High Court held that the petitioner's submissions had merit. It held that the retrospective amendment introduced by the Finance Act, 2022 did not warrant a departure from the view taken in *Luxmi Traders v. Union Territory of Chandigarh*. The High Court further held that, in the present case, where the show cause notice and orders were uploaded only on the GST Common Portal and the petitioner had specifically pleaded illiteracy and lack of knowledge, such upload did not constitute valid service for the purpose of limitation. Accordingly, it disposed of the writ petition. It further directed that, if the petitioner had already deposited the statutory pre-deposit while filing the appeal, the appeal shall be heard and decided on merits, and any attachment of the petitioner's bank account pursuant to the impugned order shall stand revoked.

Quashing of appellate order justified as improper electronic SCN service violated natural justice: HC

Facts of the Case : Raju Ghosh vs. State of WB - [2026] (Calcutta)

The petitioner challenged the appellate order dismissing his appeal as barred by limitation. The petitioner submitted that the show cause notice in Form DRC-01 was uploaded only under the 'Additional notice and orders' tab on the GST portal, due to which he remained unaware of the proceedings and came to know of the adjudication only upon receipt of a recovery email. Thereafter, recovery proceedings were initiated by debit to the electronic credit ledger and issuance of garnishee proceedings. The petitioner contended that the appeal had been dismissed on limitation without examining the merits. The matter was accordingly placed before the High Court.

Decision of the Case : The High Court held that uploading the show cause notice only under the 'Additional notice and orders' tab did not constitute effective service and violated the principles of natural justice. The Court interpreted Sections 107 and 169 of the CGST Act and the West Bengal GST Act in

the context of proper electronic service and observed that the explanation for the delay in filing the appeal deserved consideration. The Court also noted the discrepancy between the appellate order and the recovery proceedings while evaluating the matter. Accordingly, the Court found that the petitioner had established a prima facie case warranting interference, quashed the appellate order, and directed the appellate authority to entertain the appeal.

Assessment order set aside as denial of personal hearing breached natural justice when adverse action was contemplated: HC

Facts of the Case: Navin Tent House vs. State of Rajasthan [2026] (Rajasthan)

The petitioner challenged an assessment order on the ground that it had been passed in violation of the principles of natural justice. A show cause notice in Form GST DRC-01 was issued proposing demand of tax, interest and penalty, prescribing the last date for filing a reply, while the column relating to personal hearing was marked as 'NA'. The petitioner filed a reply within the stipulated time and expressly requested grant of a personal hearing before any adverse decision was taken. However, the jurisdictional officer under CGST passed an ex parte assessment order without fixing any date for personal hearing and incorrectly recorded that no reply had been filed. The petitioner accordingly contended that denial of personal hearing despite a specific request and failure to consider the reply rendered the assessment order unsustainable. The matter was accordingly placed before the High Court.

Decision of the Case : The High Court held that Section 75 of the CGST Act mandates grant of an opportunity of hearing where an adverse decision is contemplated or where such hearing is requested by the assessee. The Court observed that issuance of the show cause notice itself established contemplation of adverse action and, therefore, an opportunity of personal hearing was required even independent of the written request. It further held that since Form GST DRC-01 expressly contemplated a personal hearing after expiry of the reply period, the jurisdictional officer under CGST was required to fix a hearing before passing the assessment order. The Court found that the assessment order had been passed without granting a personal hearing and

without considering the reply already filed, thereby violating the principles of natural justice. Accordingly, the assessment order was set aside.

GST registration cannot be cancelled for amendment-stage fraud if original grant was untainted: HC

Facts of the Case : N. Suveendran vs. State Tax Officer [2026] (Kerala)

The respondent-assessee, already holding a valid GST registration, sought amendment of the registration under Section 28 of the CGST Act and the Kerala GST Act to include additional business premises on the basis of permission letters allegedly issued by his father and brother. The State Tax Officer treated the permission letters as fabricated since they were purportedly executed after the father's demise and cancelled the original GST registration by invoking the cancellation provisions. The First Appellate Authority set aside the cancellation holding that such power could not be exercised on that basis. In the writ proceedings, the learned Single Judge annulled only the impugned amendments, retained the original registration, and granted liberty. In the intra-court appeal, the appellant contended that fraud in obtaining the amendments warranted cancellation of the entire registration. While the respondent-assessee referred to pending civil suits concerning the premises and sought liberty to apply afresh subject to the outcome of those proceedings. The matter was accordingly placed before the High Court.

Decision of the Case : The High Court held that Section 29 contemplates cancellation where fraud, wilful misstatement or suppression vitiates the original grant of GST registration. The Court observed that the alleged fabrication related only to the subsequent amendment for inclusion of additional premises and did not affect the validity of the original registration granted for the business. The Court held that the statutory scheme did not justify cancellation of the entire registration when the alleged irregularity was confined to the amendment stage. The Court further found that the course adopted by the learned Single Judge in setting aside only the impugned amendments while preserving the original registration appropriately balanced the interests of the parties and caused no prejudice. Accordingly, the appeal was dismissed in accordance with law.

DIRECT TAX

Revision under section 264 not permissible to claim tolerance limit if not claimed in return or by timely revision: SC

Facts of the Case: Deputy Commissioner of Income-tax, CPC vs. Om Siddhakala Associates [2026] (SC)

The assessee had filed its return on self-assessment, which was processed by the Centralised Processing Centre, and a demand was raised under sections 143(1) and 156. Subsequently, the assessee approached the Principal Commissioner under section 264 challenging the demand. The assessee sought to rely upon the tolerance limit under section 43CA, though such claim had neither been made in the return originally filed nor was the return revised within the prescribed time.

The Principal Commissioner rejected the revision petition, observing that the tolerance limit was prospective and that the assessee was effectively seeking to revise the return after expiry of the prescribed period through proceedings under section 264.

The matter travelled from the lower authorities to the High Court, which remanded it for fresh consideration; the assessee challenged this before the Supreme Court.

Decision of the Case : The Supreme Court held that the High Court was not justified in remanding the matter for fresh consideration. Since the assessee had not claimed the benefit of the tolerance limit in the return and had also failed to revise the return within the time prescribed under the Act, proceedings under section 264 could not be used as a means to revise the return indirectly. Accordingly, the High Court's judgment and consequential reassessment were set aside, and the assessee was directed to pay tax on the basis of the return filed and the consequent intimation and demand.

The Supreme Court expressly clarified that it did not examine or decide whether the tolerance limit under section 43CA was retrospective or prospective. The appeal was allowed only on the ground that the assessee could not seek such relief under section 264 when the claim had not been made in the return and the return had not been revised within the prescribed time.

Full TDS credit allowed to assessee as co-owners did not claim share and supported entire credit to him: ITAT

Facts of the Case: Tejpratap Singh Yadav vs. Income Tax Officer [2026] (Agra - Trib.)

Assessee co-owned a house property with his mother and sister and leased it to a bank. For the relevant year, rent was received in a joint bank account of three co-owners, and each offered one-third share as income from house property in their ITRs.

The entire TDS on the rent was deducted and reported against the assessee's PAN only, and the two co-owners did not claim any TDS credit in their ITRs. Assessing Officer (AO) restricted TDS credit to one-third and disallowed the balance. The aggrieved assessee filed an appeal to the CIT(A), wherein the appeal was dismissed.

The matter then reached the Agra Tribunal.

Decision of the Case: The Tribunal held that the assessee and the two co-owners have shown their respective one-third share as income from the house property in their ITRs for the relevant A.Y. According to the lease agreement, the PAN details of the assessee and the two co-owners are expressly mentioned therein. The tenant inadvertently posted the entire TDS solely against the PAN of the assessee instead of showing the proportional amount of the three co-sharers.

The two co-owners have not claimed their one-third share against the TDS in their ITRs for the year under consideration. The two co-owners also submitted an affidavit in support of the assessee's claim of the whole TDS even during the assessment proceedings.

A careful reading of Rule 37BA(2)(i) shows that this provision has been made concerning the credit for TDS under section 199 and in a situation when the income was assessable in the hands of a person other than the deductee (here the two co-sharers) and the aforesaid conditions are fulfilled by submitting the required declaration to be filed by the deductee.

In the instant case, the other two co-owners have not claimed the proportionate TDS in their ITRs, which

was undisputedly deducted against the PAN No. of the assessee. In such a scenario, the remaining share out of the whole TDS could not be credited to them (co-sharers). Therefore, the assessee would become entitled to the credit of the whole TDS deducted against his PAN.

Sec. 263 revision set aside for non-application of mind in hurried order post-demerger: HC

Facts of the Case: Grace Infrastructure (P.) Ltd. vs. Principal Commissioner of Income-tax [2026] (Madras)

The assessee-company was engaged in the business of generation of wind power and manufacture of nuts, bolts and screws through its Wind Mill Energy Division and Nut Division. Pursuant to a scheme of demerger sanctioned by the NCLT by order dated 04-03-2021, the Nut Division was transferred to another company with retrospective effect from 01-04-2019. After the NCLT order, the assessee filed a revised return of income on 31-03-2021 incorporating the effects of the demerger.

The assessee had filed a revised return on 31 March 2021, after the NCLT order dated 4 March 2021, but before the revised balance sheet and profit and loss account following the demerger were prepared. The assessment was subsequently completed under section 143(3).

The Principal Commissioner (PCIT) invoked revisionary proceedings on the ground that the AO had failed to examine whether the demerger satisfied the conditions of section 2(19AA) and whether exemption under section 47(vib) was available. He opined that if the conditions of section 2(19AA) were not satisfied, exemption under section 47(vib) would not be available, and substantial capital gains would arise on the transfer of assets pursuant to the demerger.

Aggrieved by the order, the assessee filed a writ petition to the Madras High Court.

Decision of the Case: The High Court held that the impugned order suffered from non-application of mind and appeared to have been passed in haste to meet the limitation period. However, instead of finally deciding the taxability of the demerger transaction, the Court remitted the matter to the Principal Commissioner for fresh consideration.

The Court observed that, following the NCLT's order sanctioning the demerger, the assessee ought to have prepared its proper audited balance sheet and profit and loss account reflecting the demerger and thereafter filed a proper revised return. The Court directed the assessee to file such revised return based on the revised financial statements, which would then be considered while passing the fresh order under section 263.

The Court also noted the Supreme Court's decision in *Dalmia Power Ltd. v. Asstt. (2020) 14 SCC 736*, wherein it was held that, in the case of corporate restructuring, the tax authorities are required to take into account revised returns filed after the restructuring. Applying the same principle to the present demerger, the Court held that the revised return should be based on the financial statements prepared after giving effect to the NCLT-approved scheme.

Addition under sec. 69A for unexplained investments unsustainable as notional F&O value can't be closing stock: ITAT

Facts of the case : ACIT vs. Ram Kapoor - [2026] (Lucknow - Trib.)

The assessee, engaged in F&O/derivatives trading, had shown the "sauda value" of derivatives of about ₹. 7.18 crore as closing stock in the original audited financial statements. To balance the accounts, opening capital was shown at about ₹. 10.41 crore, which also included losses of earlier assessment years. During scrutiny, the assessee explained that the financial statements contained errors and filed a revised audit report and rectified return after correcting the treatment of derivatives and opening capital.

The Assessing Officer, however, reconstructed the capital account and found a difference of ₹. 2,82,44,223, which remained unexplained. He treated the amount as unexplained investment under section 69A and taxed it under section 115BBE. The CIT(A) deleted the addition after considering the revised audit report, rectified ITR, affidavit and F&O statements furnished by the assessee.

The matter reached before the Tribunal.

Decision of the Case : The Tribunal upheld the CIT(A)'s order and deleted the addition. It held that the



“sauda value” or contract value of derivatives cannot be treated as closing stock, since derivatives merely represent contractual exposure to price movements and do not constitute physical inventory. Further, derivatives are financially settled and marked to market, making it inappropriate to treat their contract value as unsold inventory at year-end.

The Tribunal also accepted the subsequently rectified audit report, noting that the same auditor had corrected the treatment of derivative value and corresponding capital entries. It further held that losses pertaining to earlier years could not be brought to tax in the current year merely because they were incorrectly reflected in the capital account. Even if such losses were unexplained, they would relate to the years in which they were incurred or settled.

The Tribunal further held that unexplained investment provisions apply to investments made during the relevant financial year and cannot be invoked merely on account of an unexplained opening capital balance, which represents the closing balance of the preceding year. Accordingly, the addition of ₹. 2,82,44,223 was deleted, and the Revenue’s appeal was dismissed.

Jurisdiction u/s 153A invalid as no proof that alleged unaccounted income was represented by identifiable asset: ITAT

Facts of the Case: Rudra Pratap Tripathi vs. Asstt. Commissioner of Income-tax, Central - [2026] (Mumbai - Trib.)

A search under section 132 was conducted in the assessee’s case. Based on the seized documents reflecting certain cash payments, the Assessing Officer (AO) issued notice to the assessee under section 153A. The additions were made under section 69B for the alleged unexplained investment.

The assessee contended that the AO failed to establish the jurisdictional facts necessary for invoking the fourth proviso to section 153A. The assessee argued that the jurisdictional requirement under the fourth proviso

is entirely different from the evidentiary requirement necessary for making an addition under section 69B.

The additions have ultimately been framed only under section 69B on account of alleged unexplained investment represented by the alleged cash component reflected in the seized documents. Thus, what has ultimately been brought to tax is the alleged unexplained investment itself and not any identified undisclosed asset exceeding the prescribed monetary threshold.

Aggrieved by the order, the assessee preferred an appeal to the Mumbai Tribunal.

Decision of the Case : The Tribunal held that the AO had failed to establish the jurisdictional facts necessary for invoking the fourth proviso to section 153A. It was undisputed that the search was conducted in the relevant assessment year, falling in the previous year relevant to the assessment year in question.

Consequently, the ordinary block of six assessment years contemplated under section 153A would extend only from the assessment years 2014-15 to 2019-20. Assessment years 2011-12 and 2012-13 admittedly did not fall within the said block. Even the AO proceeded on this very premise. It was precisely for this reason that instead of invoking the ordinary jurisdiction under section 153A, he sought to justify the issuance of notice by specifically referring to and reproducing the fourth proviso to section 153A together with the Explanation appended thereto.

Thus, the validity of the proceedings had to be tested strictly on the touchstone of the fourth proviso and not otherwise. The AO merely reproduced the statutory provision without recording the independent jurisdictional satisfaction contemplated therein. The jurisdiction cannot rest upon the reproduction of the statute; it must rest upon objective satisfaction founded upon the material available with the AO.

Therefore, the Tribunal held that the AO failed to establish the jurisdictional facts necessary for invoking the fourth proviso to section 153A. The assumption of jurisdiction under section 153A itself stands vitiated, and the assessment orders were to be quashed.

TAX CALENDAR

INDIRECT TAX

Aug 20, 2026	GSTR-3B (July 2026)
Aug 25, 2026	PMT – 06

DIRECT TAX

Due Date.	Return.
Aug 30, 2026	Furnishing of challan-cum-statement in Form No. 141 (Income-tax Rules, 2026) in respect of deduction of tax under section 393(1) [Table Sl. No. 2(i), 3(i), 6(ii) & 8(vi)] of the Income-tax Act, 2025 for the month of July, 2026 Furnishing of Form No. 3CT (Income-tax Rules, 1962) by the transferor of shares or interests in, a company or an entity that derives its value substantially from assets located in India, duly certified by an accountant for apportionment of income attributable to assets located in India (if the assessee is required to submit the return of income on or before August 31, 2026) Furnishing of the certificate in Form No. 10-IA (Income-tax Rules, 1962) from the medical authority certifying ‘person with disability’, ‘severe disability’, ‘autism’, ‘cerebral palsy’ or ‘multiple disability’ for the purposes of sections 80DD and 80U (Income-tax Act, 1961). (If the assessee is required to furnish the return of income on or before August 31, 2026) Furnishing of certificate of foreign inward remittance in Form No. 10H (Income-tax Rules, 1962) by a resident individual being an author/patentee claiming deduction under Section 80QQB/80RRB (Income-tax Act, 1961) in respect of income earned from any source outside India (if the assessee is required to submit the return of income on or before August 31, 2026) Furnishing of certificate in Form No. 10CCE (Income-tax Rules, 1962) by a resident individual being a patentee claiming deduction under section 80RRB (Income-tax Act, 1961) in respect of royalty income on patents (if the assessee is required to submit return of income on or before August 31, 2026) Furnishing of certificate in Form No. 10CCD (Income-tax Rules, 1962) by a resident individual being an author (including a joint author) claiming deduction under section 80QQB (Income-tax Act, 1961) in respect of royalty income (if the assessee is required to submit return of income on or before August 31, 2026) Furnishing of Form No. 10E (Income-tax Rules, 1962) by an employee claiming relief under section 89 (Income-tax Act, 1961) when salary is paid in arrears or in advance, etc. (if the assessee is required to submit the return of income on or before August 31, 2026)

Due Date.	Return.
	Due date for furnishing the return of income for the Assessment Year 2026–27 by the following assessee: • An assessee having income from business or profession whose accounts are not required to be audited, and to whom the provisions of Section 92E of the Income-tax Act, 1961 do not apply; and • A partner of a firm whose accounts are not required to be audited, or the spouse of such partner (where Section 5A of the Income-tax Act, 1961 applies), to whom the provisions of Section 92E of the Income-tax Act, 1961 do not apply.
	Furnishing of declaration in Form No. 10BA (Income-tax Rules, 1962) by an assessee claiming deduction under Section 80GG (Income-tax Act, 1961) in respect of the rent paid for residential accommodation (if the assessee is required to submit the return of income on or before August 31, 2026)
	Furnishing of Form No. 10BBD (Income-tax Rules, 1962) reporting details of funds received from eligible persons, directly or through an Alternative Investment Fund, during the Previous Year 2025-26 (if the assessee is required to submit return of income on or before August 31, 2026)
	Furnishing of statement in Form No. 10-EE (Income-tax Rules, 1962) for exercising the option to claim relief under section 89A (Income-tax Act, 1961) for income arising from retirement benefit account maintained in a notified country at the time of withdrawal or redemption (if the assessee is required to submit the return of income on or before August 31, 2026)
	Furnishing of the certificate in Form No. 10-IA (Income-tax Rules, 1962) from the medical authority certifying ‘person with disability’, ‘severe disability’, ‘autism’, ‘cerebral palsy’ or ‘multiple disability’ for the purposes of sections 80DD and 80U (Income-tax Act, 1961). (If the assessee is required to furnish the return of income on or before August 31, 2026)
	Furnishing of certificate of foreign inward remittance in Form No. 10H (Income-tax Rules, 1962) by a resident individual being an author/patentee claiming deduction under Section 80QQB/80RRB (Income-tax Act, 1961) in respect of income earned from any source outside India (if the assessee is required to submit the return of income on or before August 31, 2026)
	Furnishing of Form No. 3CT (Income-tax Rules, 1962) by the transferor of shares or interests in, a company or an entity that derives its value substantially from assets located in India, duly certified by an accountant for apportionment of income attributable to assets located in India (if the assessee is required to submit the return of income on or before August 31, 2026)
	Furnishing of statement in Form No. 3CFA (Income-tax Rules, 1962) for exercising the option to pay tax at a concessional rate under section 115BBF (Income-tax Act, 1961) for income in the nature of royalty arising from patent developed and registered in India (if the assessee is required to submit return of income by August 31, 2026)

E-PUBLICATIONS

Of

TAX RESEARCH DEPARTMENT

Insight into Customs - Procedure & Practice

Handbook on GSTAT

Handbook on GST on Education Sector

Input Tax Credit (ITC) - An in depth discussion

Handbook on GST on Real Estate

Handbook on GST on Service Sector

Handbook on Handbook on Invoice Management System under GST

Handbook on Impact of GST on MSME Sector

GST Bare Act

Handbook on GST Department Audit

Handbook on CMA Certifications in GST

Handbook on E-way Bill

Handbook on relevance of CAS4 under GST regime

Comprehensive Guide to Advance Pricing Agreements: An Indian Perspective*

Managing Transfer Pricing Risks: Indian and International Perspective*

Ready Reckoner on Income Tax Act, 2025

Bare Laws - Income Tax Act, 2025

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TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

1. Successfully conduct all Taxation Courses.
2. Publication and Circulation of Tax bulletin (both in electronic and printed formats) for the awareness and knowledge updation of stakeholders, members, traders, Chambers of Commerce, Universities.
3. Publication of Handbooks on Taxation related topics helping stakeholders in their job deliberations.
4. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/registered dealers.
5. Conducting Seminars and workshops on industry specific issues, in association with the Trade associations/ Traders/ Chamber of commerce in different location on practical issues/aspects associated with GST.
6. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
7. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
8. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc.

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