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DEVMANTRA TIMES

MAY EDITION

Issue No.50, Dated 4th May, 2025

Dear Readers,

We welcome you to the **Fiftieth** edition of **DevMantra Times** for the month of **May 2025.** This newsletter highlights key updates, In recent developments across various sectors, several key business and regulatory updates have emerged that reflect shifting strategies and potential impacts on the market. SEBI has streamlined its forensic audit panel, while **ICAI** will be scrutinizing financial statements of companies like **Gensol Engineering and BluSmart Mobility** amid governance concerns. The escalating tariff war has raised alarms over **Rs 21,800 crore** in loans to MSMEs and mid-corporates, signaling vulnerabilities in the market. Meanwhile, **Tesla's** refund of reservation fees and plans for a market entry in India indicate a strategic shift following ongoing trade negotiations. **Bharat Biotech's** significant investment in **cell and gene therapies** marks a new chapter in the pharmaceutical industry, while **Ather Energy** and **Zypp Electric** are making notable strides in the startup ecosystem with promising growth and future targets. Finally, the unfolding crisis at **BluSmart Mobility** has prompted **SEBI** to closely examine unlisted bond markets to mitigate mis-selling risks. These developments provide a glimpse into the evolving dynamics of India's business and regulatory landscape. At Aone Devmantra, we are committed to exceeding your expectations, driving innovation, and supporting you in achieving your goals.

Here's to a year filled with new milestones, shared successes, and inspiring moments. May 2025 bring health, happiness, and prosperity to you and your loved ones. Thank you for being an essential part of our community. Together, let's make this year extraordinary!

Industry & Economic Updates

Sebi shortens forensic auditor list to 9 from 20

SEBI has shortlisted nine firms, including Deloitte, BDO, and Chokshi & Chokshi, for conducting forensic audits of listed companies, reducing the panel size from 20. The selection, valid for three years, prioritizes firms with proven experience and quality work in past assignments, aiming for a more focused approach to sensitive fraud investigations.

ICAI to review financial statements of crisis-hit Gensol Engg, BluSmart Mobility

ICAI will scrutinize the financial statements of Gensol Engineering and BluSmart Mobility for fiscal year 2023-24, prompted by concerns over alleged fund diversions and governance lapses at Gensol. SEBI has already barred Gensol's promoters from the securities market. The review aims to assess compliance with accounting standards and other regulations.

Tariff war puts Rs 21,800 cr in MSME, mid-corporate loans at risk: Report

India Ratings warns that Rs 21,800 crore in loans to high-risk MSMEs and mid-corporates are threatened by worsening operating conditions due to the escalating tariff war. MSMEs, particularly in sectors like chemicals and textiles, face growing vulnerability. Mid-corporates possess a stronger financial buffer, but a slowdown in demand could severely impact MSMEs.

Tesla refunds early India bookings signaling entry is near

Tesla is refunding Model 3 reservation fees in India, signaling a possible shift in its market entry strategy after facing years of high import duty hurdles. This move comes as Elon Musk's planned visit to India coincides with

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ongoing trade negotiations that could lead to a reduction in automobile tariffs. These developments suggest that Tesla may be adjusting its approach to entering the Indian market, potentially benefiting from more favorable import conditions if tariffs are lowered, and paving the way for future sales in the country.

Bharat Biotech invests Rs 600 cr to expand into cell, gene therapies

As per Bharat Biotech, the facility will tackle scientific challenges such as targeted gene expression, immune system modulation, and long-term cell survival. Work will span from boosting immune responses against cancer to ensuring that therapeutic proteins are safely accepted in patients with genetic diseases like haemophilia.

Startup Updates
Ather Energy's IPO sees 16% subscription on first day

The company is offering 53 million shares in its public offering, and on the opening day, 8.6 million shares were bid for. Subscription rates varied across different categories: the retail portion was subscribed 0.63 times, indicating demand from retail investors was lower than expected. The Non-Institutional Investors (NII) portion saw a much lower subscription rate of 0.16 times, reflecting minimal interest from this group. In the Qualified Institutional Buyers (QIB) category, only 5,060 shares were bid for, despite 28.9 million shares being allocated, showing a significant shortfall in demand from institutional investors. On a positive note, the employee portion, which had 1 lakh shares reserved, was subscribed 1.78 times, indicating strong demand from employees for their reserved shares. Overall, the offering has seen relatively low interest from institutional investors, with better demand from employees and retail investors.

Zypp Electric posts Rs 455 crore revenue in FY25, up 50% YoY

The Gurugram-based company, which has spent the past year focusing on streamlining technology, improving vehicle quality, and standardising operations, is now targeting Earnings Before Interest, Taxes, Depreciation, and Amortisation (EBITDA) breakeven within the next one to two quarters,according to a recent statement. This indicates the company's efforts to enhance operational efficiency and financial performance, positioning it for profitability in the near term.

BluSmart crisis likely to draw Sebi heat on unlisted bond market

The crisis at BluSmart Mobility has sparked concerns over unlisted bond sales, prompting likely scrutiny from SEBI. The electric cab startup raised over Rs 100 crore via unsecured bonds, raising fears of mis-selling. Regulators may impose tighter rules on fintechs selling high-risk, unlisted debt products to retail investors, aiming to curb exposure.

Why this Volume of Newsletter is important for reader?

Through the series of this newsletter, we aim at covering all relevant Income Tax, Goods & Service Tax and Companies Act, Start-up Update, notification, circulars and case laws which may directly or indirectly impact our readers.

At DevMantra, it is our utmost priority to help our readers to be informed with respect to the changes in relevant laws for a smoother compliance.

DevMantra was founded based on the unalterable premise of excellence, acuity, integrity and an unwavering commitment to

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delivery. These principles continue to form the edifice of our approach as an organization, to our clients, our professionals and our community, and this has served us well in our journey so far. This approach has allowed DevMantra to work with and advise the very best clients, both in India and internationally. We encourage our people to strive for excellence and innovation within a meritocratic working environment and support their entrepreneurial spirit. It is our consistent endeavor with our people, to ensure that they imbibe the culture of the firm and form part of the weft and weave of the fabric of DevMantra. Our core values remain the guiding principles for everything we do, and we would like to emphasize "Knowledge" as one of the fundamental beliefs which drive the success of our operations. As we keep on reiterating, Knowledge is our number one priority. We don't count time when it comes to gain any new knowledge or to reinstate the earlier one. Our clients trust our expertise and putting countless hours in keeping ourselves up to date on the subject we are advising on, deserve their trust.

Regards & Best Wishes,
Editorial Team

GST
JUDICIAL UPDATES

Recovery proceedings for erroneous refund to be quashed as Notification No. 54/2018 applies prospective-ly: HC

Editorial Note : In this case, the authorities issued notices/summons demanding duty based on the retrospective application of Notification No. 54/2018-Central Tax dated 09.10.2018, which was intended to provide certain exemptions or concessions under the Goods and Services Tax (GST) regime. However, the notices were challenged in court, and the court quashed the notices, ruling that the notification applied prospectively from 09.10.2018 and not retrospectively from 23.10.2017. The court held that the retrospective application of the notification was not valid, as the notification clearly specified its applicability from the date it was issued (i.e., 09.10.2018), and there was no provision allowing its application to prior periods. Consequently, the demand for duty based on the retrospective application of the notification was deemed invalid, as it violated the principle that notifications are generally presumed to have prospective application, unless explicitly stated otherwise. Thus, the court ruled in favor of the taxpayer, quashing the demand notices, and reaffirmed that notifications under tax law are to be applied from their effective date unless a clear provision is made for retrospective effect.

ITC not to be denied to pur-chasing dealer on selling dealer's failure to deposit collected tax: HC

Editorial Note : Where assessee challenged validity of section 16(2)(aa) and section 16(2)(c) of CGST Act & ASGST Act, following decision in WP(C) 2863/2022, dated 5-8-2024, section 16(2) of CGST Act & ASGST Act was to be read down, in event selling dealer had failed to deposit tax collected by him from purchasing dealer, remedy for department was to proceed against defaulting selling dealer to recover such tax and purchasing dealer was not to be denied ITC

No relief to assessee for failure to disclose all business locations while seeking GST registration: HC

Editorial Note : Where an order was passed under section 74 against assessee for not declaring a premise from where business was conducted while seeking registration, writ petition

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of assessee claiming that same was mentioned in a partnership deed and it was duty of respondent to include same, was to be dismissed as it was for assessee to fairly disclose all sites wherein business was being conducted

Order to be set aside as authority sent notices on email ID which was changed with intimation to authority: HC

Editorial Note : In this case, after the issuance of a show cause notice, the assessee filed a reply in response. However, the impugned order was passed on the ground that the reply had not been filed, which was factually incorrect. Additionally, the notices for personal hearing were sent to an email address that had been abandoned by the assessee, and the new email address had been communicated to the respondent. Given that the reply was indeed filed by the assessee, and the respondent failed to acknowledge it, and also considering that the notices for personal hearing were sent to an old email address, which was no longer in use, the impugned order could not be sustained. The failure to send notices to the correct email address and the wrongful assertion that no reply was filed led to a violation of principles of natural justice. Therefore, the impugned order was set aside by the court, as it was passed in violation of procedural fairness, and the assessee was not given an adequate opportunity to present their case.

Order to be set aside as show cause notice lacked allegation of fraud or willful misstatement required under Section 74: HC

Editorial Note : In this case, the impugned show cause notice and the ex-parte order passed under Section 74 of the Uttar Pradesh Goods and Services Tax (UPGST) Act were challenged. The court held that the ingredients of Section 74 had not been adhered to, as there was no allegation of fraud or any wilful misstatement or suppression of material facts in the show cause notice. 1Section 74 of the UPGST Act deals with the recovery of tax in case of fraud or willful misstatement, and it mandates specific allegations of fraudulent intent or deliberate concealment of facts to invoke the provisions under this section. Since the show cause notice did not include any such allegations, the requirements of Section 74 were not met. As a result, the court ruled that the impugned show cause notice and the ex-parte order passed under Section 74 were invalid and directed that they be set aside. This ruling emphasized the importance of adhering to procedural requirements, including the need to make specific allegations of fraud or willful misstatement before invoking Section 74.

Order to be quashed as parallel proceedings by central and state authorities on same issue and for same period are impermissible: HC

Editorial Note : Both CGST (Central Goods and Services Tax) and SGST (State Goods and Services Tax) authorities initiated parallel proceedings against the assessee for the same year, raising identical contentions in their orders under Section 73 of the CGST Act. Since the contentions were essentially the same, it was deemed impermissible for both authorities to simultaneously proceed with separate assessments for the same issue and the same tax year. The law does not allow dual proceedings for the same set of facts under CGST and SGST in relation to the same transaction or period, as it would result in duplication and unjustifiable burden on the taxpayer. Since the same matter was being addressed twice by different authorities, the orders passed by both authorities were quashed, as such parallel

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proceedings are not permitted under the GST law. This ruling reinforced the principle of fair and efficient administration of tax laws, ensuring that the taxpayer is not subjected to conflicting and redundant actions.

Questions regarding GST department's search conduct, seizure, and penalties fall outside the scope of Section 97(2): AAR

Editorial Note: The questions regarding the legality of the search conducted, seizure of cash and goods, imposition of penalties, and the conduct of searches by the GST department were raised in an advance ruling application. However, these issues were not covered under any of the clauses of Section 97(2) of the GST Act, which specifies the matters on which an advance ruling can be sought. Section 97(2) outlines the specific categories of questions that can be addressed through an advance ruling, such as classification of goods or services, determination of the value of supply, eligibility of exemptions, and other tax-related issues. Since the issues raised pertained to matters such as the legality of searches, seizure, and penalties, these are not within the scope of issues that can be addressed under advance ruling provisions. As a result, the advance ruling application was rejected because the questions raised did not fall within the jurisdiction of the authority to issue an advance ruling under the GST law.

Filing of certified copy of order appealed against is not mandatory but procedural in nature: HC

Editorial Note : The Delhi High Court decision in Chegg India Pvt. Ltd. v. Union of India & Ors., W.P. (C) No. 1062/2024 was relied upon, which held that the requirement for physically filing a certified copy of the order is not mandatory but procedural in nature. According to the judgment, if an appeal is filed along with all the necessary documents and a copy of the appeal, the filing of a certified copy of the impugned order should not be considered a strict requirement. As the impugned order rejecting the assessee's appeal under Section 73(1) was based solely on the failure to file the certified copy of the order, the court ruled that such a procedural requirement should not result in the rejection of the appeal. Since all other documents were in order and the appeal was otherwise valid, the court set aside the impugned order, emphasizing that procedural lapses should not bar an appeal if the essential documents and information are provided. Thus, the court's ruling confirmed that procedural technicalities should not prevent the substantive adjudication of the case.

Orders under Section 74 without allegations of fraud or willful misstatement to be treated as issued u/s 73 enabling eligibility for Amnesty Scheme: HC

Editorial Note: In cases where assessment orders are issued under Section 74 of the CGST Act without any allegations of suppression, wilful misstatement, or fraud, such orders should be treated as if they were issued under Section 73 of the CGST Act. This is because Section 74 specifically deals with cases involving fraudulent intent or willful misstatement, whereas Section 73 pertains to non-fraudulent cases where tax has been underpaid due to reasons such as error or misinterpretation. If no allegations of fraud or wilful misstatement are made, the assessment should be considered under Section 73, which allows the taxpayer to avail the Amnesty Scheme benefits. The Amnesty Scheme provides relief by waiving penalties and interest in certain circumstances if the taxpayer voluntarily settles

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their dues. Therefore, in such cases, the assessee is eligible for the benefits under the Amnesty Scheme if the assessment order is deemed to have been issued under Section 73 rather than Section 74. As a result, the orders issued under Section 74 without the necessary allegations of fraud or suppression can be reclassified as under Section 73, allowing the assessee to take advantage of the scheme.

Cancellation of GST registration set aside as reasons for non-filing caused by auditor's negligence were found to be valid: HC

Editorial Note: Where respondent-department cancelled GST registration of petitioner-assessee on ground of non-filing of returns for six months, however, petitioner - assessee submitted that appointed auditor had failed to file petitioner-assessee's returns continuously for relevant period, since, aforesaid reasons provided for non-filing of returns by petitioner-assessee appeared to be genuine, therefore, in view of above facts, impugned cancellation order was to be revoked

Clubs/Associations are not liable to pay GST on supply of services to its members as levy was unconstitutional: Kerala HC

Editorial Note: The provisions of Section 2(17)(e) and Section 7(1)(aa) with its Explanation under the CGST/KGST Act have been held unconstitutional as they attempt to tax transactions between clubs and their members by deeming them as "supply," even where the principle of mutuality applies. These provisions are considered ultra vires of Article 246A, Article 366(12A), and Article 265 of the Constitution, as they go beyond the constitutional mandate for levying GST and violate the principle that tax can be levied only on valid supply with consideration.

No GST applicable on affiliation fees collected by university; SCN to be quashed: HC

Editorial Note : The affiliation fees collected by the assessee university were held not to be "consideration" under Section 7 of the CGST Act, which defines the scope of "supply" for the purposes of GST. The fees were collected as part of the university's statutory or regulatory function, in accordance with statutory provisions, and not under any commercial contract. Since these fees were in the nature of statutory levies and not a payment for any commercial service, they do not fall within the definition of taxable supply under GST. As a result, the show cause notice demanding GST on affiliation fees was deemed unsustainable and was accordingly quashed by the court.

Lessor is liable to pay GST on lease or rent unless liability shifts to tenant under RCM: AAR

Editorial Note : Under the GST law, the lessor or building owner is generally liable to pay GST on the lease or rent received for renting out commercial property. This is because the supply of renting immovable property for business purposes is considered a taxable service under GST. Unless there is a specific provision under the law that shifts the liability to the recipient of service (tenant) under the Reverse Charge Mechanism (RCM), the responsibility to collect and remit GST remains with the lessor. RCM applies only in specified cases notified by the government. Thus, in the absence of such a notification, the building owner must charge and pay GST on rental income as the supplier of the service.

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Assessee is relegated to file reply to SCN as HC declined interference in light of already settled issue by Supreme Court

Editorial Note : The assessee challenged a show cause notice proposing to recover service tax along with interest and penalty for delayed payment. However, relying on the Supreme Court's decision in Mineral Area Development Authority v. Steel Authority of India [2024] 164 taxmann.com 806 (SC), the court held that such matters should first be addressed at the departmental level. Accordingly, the assessee was relegated to the respondents (i.e., the tax authorities) and directed to file a detailed reply to the show cause notice within 30 days. The court emphasized that the assessee must follow the due process before invoking judicial intervention, and the authorities were required to consider the reply on merits in accordance with law.

HC dismissed review petition challenging demand for differential tax post tender submission as tender was submitted before rate reduction was notified

Editorial Note : Where assessee had submitted tender after decision of GST Council meeting dated 5-8-2017, taking decision to reduce rate of GST on Works Contract Services from 18% to 12%, formal notification issued on 21-9-2017, writ petition filed by assessee challenging letter issued by respondent calling upon him to deposit differential amount of tax, was rejected by court, plea that assessee had taken into consideration reduction in rate as recommended by GST Council and accordingly made bids,

Customs & GST authorities are directed to amend shipping bill & grant refund as wrong GSTIN was mentioned: HC

Editorial Note : The assessee, while making an export, inadvertently entered the GSTIN of its sister concern (having a similar name), which led to the shipping bill being generated in the name of the sister concern. As a result, the assessee was unable to claim a refund of IGST paid on the export, since the details did not match with the GST portal records. Recognizing that the error was inadvertent and clerical in nature, and that the export was genuine, the court held that the respondent authority should amend the shipping bill in the EDI system, and thereafter update the GST portal to reflect the correct details. This would enable the assessee to successfully process and receive the IGST refund. The decision underscores the importance of substantive justice over procedural lapses, especially where no revenue loss or fraud is involved.

Final demand cannot exceed amount specified in Show Cause Notice as per Section 75(7) of GST Act: HC

Editorial Note : Where a final assessment order demands a tax amount higher than what was proposed in the show cause notice, it violates Section 75(7) of the GST Act, which mandates that the adjudicating authority cannot confirm a demand exceeding the amount specified in the show cause notice. Moreover, if the assessment is restored automatically for non-filing of reply within the stipulated time, without considering any request for extension or the merits of the case, it is procedurally unfair. The law requires due opportunity of hearing and a reasoned order, not a mechanical restoration. Therefore, such an order is liable to be set aside, and the assessee must be given a fair chance to respond and be heard.

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Refusal to grant cross-examination of third parties in GST proceedings violates principles of natural justice: HC

Editorial Note : In GST proceedings, when the show cause notice relies on statements of third parties, the assessee must be given an opportunity to cross-examine those individuals. Denial of such opportunity violates the principles of natural justice, particularly the right to a fair hearing. Under Section 75(4) of the CGST Act, 2017, if any adverse material is relied upon in the decision-making process, the assessee must be given a reasonable opportunity of being heard. Therefore, refusal to allow cross-examination of third parties whose statements form the basis of the notice renders the proceedings procedurally defective, and any order passed in such a manner is liable to be set aside.

INCOME TAX

REGULATORY UPDATES

Compensation received from Disney for erosion in value of investment in JV not taxable u/s 28: ITAT

Editorial Note : Where assessee company joined hands with a company to form a new venture and assessee and said company then entered into an agreement wherein latter entity transferred its shareholding in joint venture at rate of 51 per cent to a wholly owned assessee's subsidiary and further agreed to pay it an amount as compensation for erosion in value of its investment in joint venture, since assessee was not managing agency in foregoing terms, impugned compensation was not assessable under

Step-siblings are relatives under Income Tax Act; gifts received from them are exempt: ITAT

Editorial Note : Under Section 56(2)(x) of the Income Tax Act, 1961, gifts received by an individual without consideration are generally taxed under the head "Income from Other Sources," unless received from a "relative." The term "relative," as defined in the Act, includes siblings, but does not explicitly mention step-siblings. However, in certain judicial interpretations, step-brothers and step-sisters have been considered relatives by affinity, particularly when there is a genuine and established familial relationship. In the case in question, the assessee received a gift from his step-sister. It was held that this gift would be exempt from taxation, as the step-sister was accepted as a "relative" for the purpose of Section 56(2)(x). This broader interpretation ensures that genuine family relationships are not unfairly taxed simply due to technical omissions in statutory language.

No need to prove irrecoverable debt; writing off in books is sufficient: ITAT

Editorial Note : Under Section 36(1)(vii) of the Income Tax Act, 1961, an assessee is allowed a deduction for bad and doubtful debts, provided the amount is written off as irrecoverable in the books of accounts during the relevant previous year. The only requirement for claiming this deduction is the actual write-off; the assessee is not required to prove that the debt has become irrecoverable in fact. Courts, including the Supreme Court in the case of TRF Ltd. v. CIT, have clarified that once the assessee writes off the debt in the books, that act alone is sufficient for claiming the deduction. There is no further obligation to demonstrate that recovery efforts failed or that the debtor is insolvent. This simplifies the process for taxpayers by focusing solely on the accounting treatment rather than the factual proof of irrecoverability.

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Liability recorded in books of account through journal entries fell outside purview of Sec. 269SS: ITAT

Editorial Note : Where assessee-firm recorded loan received from NBFC in its books of account by way of journal entry, since section 269SS applied only to transactions involving acceptance of money and did not extend to cases where a debt or liability arose merely due to book entries, impugned transaction was outside ambit of section 269SS and, consequently, penalty levied under section 271D was to be deleted

No exemption under section 54F if property sold was a residential one even though it was let out to a bank: ITAT

Editorial Note : Under the Income Tax Act, 1961, Section 54F provides exemption on capital gains arising from the sale of any long-term capital asset (other than a residential house) if the net consideration is invested in purchasing or constructing a residential house. However, this exemption does not apply if the asset sold is already a residential property. In the case at hand, the assessee sold a residential property and claimed exemption under Section 54F. Since Section 54F applies only when the asset sold is not a residential house, the claim was not valid. Instead, the appropriate section applicable in such cases is Section 54, which specifically deals with exemption on capital gains from the sale of a residential house when the gains are reinvested in another residential property. Therefore, the assessee's claim under Section 54F was rejected, as the provisions of that section did not apply to the nature of the asset sold.

AO can't adjust refund if tax was deducted by employer but wasn't deposited with Govt: HC

Editorial Note : Where tax was deducted by employer of assessee for relevant years, however, it had failed and neglected in depositing same at material time, demands for said years were to be quashed and revenue would not be entitled in law to adjust demand raised for earlier assessment years against any other assessment year

Compensation paid for non-fulfillment of business commitment is allowable as deduction: ITAT

Editorial Note : Where assessee, NBFC, entered into an MoU with an investment fund and as it could not conclude deal for investment within stipulated period, MoU was terminated and assessee had to pay compensation which was claimed as expenditure, since said payment was made by assessee as per terms of agreement entered during course of business and had duly shown payment from books, section 69C could not be invoked

ITAT quashed order as it was sent to CA's email ID who was no longer associated with assessee

Editorial Note : The assessment order was not made available to the assessee until 4th April 2024, while the statutory deadline for completing the assessment under the Income Tax Act was 31st March 2024. As per the law, an assessment order must not only be passed within the prescribed time limit but also dispatched or made available to the assessee within that period to be considered valid. If the assessment order is dated after the limitation period or reaches the assessee only after the due date, it is treated as time-barred and thus invalid in law. Since, in this case, the order was received beyond 31st March 2024, it is presumed that it was either not passed or not communicated

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within the statutory timeframe. Consequently, the assessment is barred by limitation and liable to be quashed on that ground.

Property to be let out in earlier period & remained vacant for whole year to be assessed u/s 23(1)(c) as nil: ITAT

Editorial Note : Under Section 23(1)(c) of the Income Tax Act, if a property was let out in an earlier period and remained vacant during the relevant year, its annual value can be considered 'Nil'—even if it wasn't actually let out during that year—provided the assessee continued to hold it with the intention to let it out. Courts have clarified that actual letting during the year is not mandatory; what matters is the genuine intention to let and the property's continued use for that purpose.

No penalty for non-disclosure of foreign assets if disclosed in revised ITR filed within time limit: ITAT

Editorial Note: The assessee, a British citizen and tax resident in India for the relevant assessment year, initially failed to disclose a foreign asset in the original income tax return. However, the foreign asset was disclosed in the revised return, which was filed within the prescribed time limit. Since the omission was rectified within the allowed time frame and there was no intention to conceal or evade taxes, the penalty under Section 43 for non-disclosure of foreign assets in Schedule FA was deemed unwarranted. The penalty was deleted as the assessee took corrective action by filing the revised return promptly.

AO is duty bound to correctly compute dep. even if assessee might have computed it incorrectly: ITAT

Editorial Note : Under Rule 8D(2)(ii), read with Section 14A of the Income Tax Act, disallowance of expenses related to exempt income should be based on the average value of investments yielding exempt income during the year, not the market value of investments as determined by the Assessing Officer. The provision specifies that the disallowance calculation is to be made using the average value of investments during the relevant financial year, which typically involves taking the average of the opening and closing values of such investments. The market value of the investments is irrelevant for this purpose. Therefore, if the Assessing Officer calculated the disallowance based on the market value instead of the average value, such a disallowance would be incorrect and contrary to the provisions of Rule 8D and Section 14A.

No capital gain tax on relinquishment of share in jointly held properties under family settlement: ITAT

Editorial Note: Where assessee and his brother had purchased certain properties jointly and in order to avoid dispute between family members, family settlement deed was made and joint holding properties between brothers were settled, such transaction of settlement could not be termed as 'transfer' for purpose of section 2(47), and hence, settlement transactions could not be brought under ambit of taxation under head capital gains

Replacement of old machinery by new one is revenue exp. if there is no increase in production capacity: HC

Editorial Note : Where assessee incurred expenditure on replacement of old machinery by new machinery, in view of facts that system that replaced old system was pollution free and reduced consumption of electricity and there was no increase in production capacity in factories of assessee which remained constant both pre and

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post year of replacement, said expenditure incurred by assessee was to be allowed as revenue expenditure

Deposits in foreign bank a/c inherited from parents not treated as undisclosed foreign income/assets: ITAT

Editorial Note : Where Assessing Officer assessed deposits in foreign bank account of assessee under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (BMA Act) on ground that assessee failed to substantiate that funds were inherited from his parents, since deposits were made by parents and did not constitute undisclosed foreign income or assets, impugned addition was to be deleted

Voluntary CSR expenditure towards recognized institutions qualifies for section 80G deduction: ITAT

Editorial Note : Where assessee incurred expenditure towards Corporate Social Responsibility (CSR) by making donations to two institutions which were eligible to accept donations under section 80G, since act of assessee to choose two institutions was voluntary and was not mandated by section 135 of Companies Act, 2013, assessee was eligible to claim deduction under section 80G

Interest on GST and late filing fee allowable as deduction u/s 37: ITAT

Editorial Note : The Interest on GST and late filing fees are generally considered compensatory in nature, rather than penalties for violation of the law. The interest on delayed payment of GST is essentially meant to compensate for the time value of money, as the taxpayer is using funds that are due to the government. Similarly, the late filing fee is intended to encourage timely compliance and compensate for any administrative inconvenience caused by delayed filings. Since these payments are compensatory and not punitive, they are typically allowed as a deduction under the Income Tax Act, as they are considered part of the ordinary business expenses incurred to ensure proper tax compliance. Therefore, such amounts, being compensatory, are allowable as a deduction under Section 37(1), as they do not fall under the category of fines or penalties, which are generally disallowed.

Interest on loans for payment to landowners under JDA allowed as it was for business purposes: ITAT

Editorial Note : Where assessee, engaged in business of real estate, development, etc., had taken loans from bank and other parties for payment to land owners under Joint Development Agreement (JDA) and claimed interest expenditure on such borrowed capital, since project undertaken by assessee formed part of its stock in trade and was not a capital asset, interest cost incurred by assessee on borrowed funds was for purpose of its business and same was to be allowed as deduction

Common area maintenance charges paid for availing services/facilities to builder liable to TDS u/s 194C: ITAT

Editorial Note: Payments made towards common area maintenance charges are typically considered as contractual payments for availing certain services or facilities, such as cleaning, security, or upkeep of shared spaces. These payments are not for the use of any specific premises or equipment, but rather for the provision of services related to the maintenance of common areas in residential or commercial properties. Since these charges are for services provided under a contract, they fall under the

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purview of Section 194C of the Income Tax Act, which mandates deduction of tax at source (TDS) on payments made for contractual work or services. The TDS is to be deducted at the applicable rate from the payment made to the service provider for maintenance services in common areas.

Co-ownership in new house doesn't disqualify Sec. 54 relief if no double deduction is claimed: ITAT

Editorial Note : In this case, the assessee, along with her husband, purchased a residential property and later sold it, using the capital gains to invest in a new residential property jointly with her husband. Under Section 54 of the Income Tax Act, there is no restriction preventing the assessee from claiming the deduction for the capital gains on the new property as a co-owner. Section 54 allows a taxpayer to claim exemption on long-term capital gains arising from the sale of a residential property, provided the gains are reinvested in another residential property within a specified period. There are no specific conditions under Section 54 that restrict a taxpayer from claiming this benefit as a co-owner or from using the proceeds of one or two properties sold, or even if the new property is purchased jointly with a spouse. The provision allows the co-ownership of the new property, and it is not necessary for the assessee to hold the property individually to claim the exemption.

CORPORATE LAW UPDATES

Scheme of arrangement approved by majority share-holders in compliance with Co(s) Act & SEBI delisting norms was to be approved: NCLT

Editorial Note: In this case, a scheme of arrangement was approved by the requisite majority of shareholders of the company, ISEC, in accordance with the provisions of the Companies Act and Regulation 37 of SEBI (Delisting of Equity Shares) Regulations, 2021. Since the scheme complied with the necessary statutory requirements and was approved by the shareholders as per the prescribed procedures, it was binding and valid. The court held that the scheme could not be rejected after being duly approved by the shareholders and in compliance with the applicable regulations. The approval process, including shareholder consent and adherence to the relevant provisions, was considered sufficient and proper for the scheme to proceed. Thus, the rejection of the scheme would be inappropriate, and it was to be upheld, as the company had followed the required legal procedures in the approval process.

NCLT declares transfer of property of company null and void as it was sold without consent of its shareholders/members

Editorial Note: the properties of R1 company were sold without the consent of its shareholders/members. Since the transfer of property directly impacted the interests of the shareholders and members, and there was no approval or consent from them, the action was deemed oppressive. Under the principles of corporate governance, significant decisions like the sale of company property should involve the approval of the shareholders/members, as they have a direct stake in the company's assets and operations. The failure to obtain their consent before selling the properties was considered an oppressive action against their rights and interests. As a result, the court held that such a transfer of property was invalid and null and void, as it was carried out without proper authorization from the

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shareholders, violating their rights and not in compliance with the provisions of fair and transparent decision-making within the company.

Director's misuse of DSC to reduce petitioner's share-holding without consent constitutes oppression and mismanagement: NCLT

Editorial Note : Where shareholding of petitioner-promoter in respondent company had been drastically reduced by allotting new shares and transferring existing shares by second respondent-director misusing his Digital Signature Certificate (DSC) and filing e-forms PAS-3 and MGT-14 without knowledge and consent of petitioner, acts of second respondent was a clear case of oppression and mismanagement under Sections 241 and 242.

Board's failure to prove service of notice invalidates meetings, share allotment, and director appointments: NCLT

Editorial Note : The mandatory procedure required for increasing the authorized share capital, altering the memorandum and articles of association, allotting shares, and appointing directors was not followed. Since these actions are critical corporate decisions that must be made in compliance with the provisions of the Companies Act and company's articles, failure to adhere to the prescribed legal and procedural requirements renders the resolutions invalid. The court held that such resolutions passed without following the proper procedure were illegal and void. This means the increase in authorized share capital, alteration of the memorandum and articles, allotment of shares, and appointments of directors were all null and void due to non-compliance with the mandatory requirements of corporate law.

Application for reduction of share capital by transferring deceased shares to legal heir without CLB authorization was dismissed: NCLT

Editorial Note : The applicant company sought to effectuate a reduction of its share capital by transferring the shares held in the name of a deceased shareholder to one of the legal heirs. However, the Company Law Board (CLB) did not authorize the reduction of share capital and did not find any case of oppression and mismanagement that would justify such an action. Since the CLB did not find any valid grounds for intervening in the matter, particularly regarding oppression and mismanagement, and there was no authorization for the reduction of share capital, the application was dismissed. The court ruled that without the necessary approval or valid justification, the transfer of shares to the legal heir and the reduction of share capital could not be allowed.

Appeal filed in 2020 against 2016 share transfer held time-barred under Article 137 of the Limitation Act, 1963: NCLT

Editorial Note : The share transfer in question was recorded in 2016, but the appellant took no action to challenge it until 2020, when a notice was first issued. As per Article 137 of the Limitation Act, 1963, the limitation period for filing such a legal claim is three years from the date the right to sue accrues. Since the appellant's challenge came after the expiry of the prescribed limitation period, the court held that the appeal was time-barred and therefore not maintainable. Consequently, the appeal challenging the share transfer was dismissed as barred by limitation.

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Unregistered status of a Partnership firm prevents its partners from suing another partner for recovery of dues: SC

Editorial Note: Where partners of an unregistered partnership firm filed a suit for recovery of money from another partner of the same firm, the rigours of Section 69(1) of the Partnership Act would apply. Section 69(1) of the Indian Partnership Act, 1932 stipulates that no suit can be filed by a partner in respect of any claim related to the partnership firm unless the firm is registered. Since the partnership firm in this case is unregistered, the partners are prevented from filing a suit for the recovery of money, even against a fellow partner. The unregistered status of the partnership firm bars the partners from taking legal action, and thus, the suit filed by the partners for recovery of money from another partner would be dismissed due to the prohibition under Section 69(1).

NFRA holds overriding powers over ICAI in auditor oversight, including cases before its formation or Sec. 132 enforcement

Editorial Note : The National Financial Reporting Authority (NFRA), as stipulated under Section 132 of the Companies Act, 2013, has been granted superior authority over the Institute of Chartered Accountants of India (ICAI) regarding the oversight of auditors and disciplinary matters. This provision empowers NFRA to oversee the quality of audits, regulate the profession of auditors, and take action against auditors and audit firms for any violations of professional standards. Regarding retrospective jurisdiction, the NFRA has the authority to take action against delinquent Chartered Accountants for alleged offences committed prior to the formation of NFRA or before the relevant portions of Section 132 of the Companies Act came into effect. This means that NFRA's jurisdiction is not limited to the period after its formation, and it can look into and take action for offences that occurred before the authority was established, giving it retrospective jurisdiction over such matters. In essence, NFRA's authority extends beyond its establishment date, allowing it to handle cases involving alleged professional misconduct by auditors even for periods before its operational commencement.

Not-for-profit Co. can't return FDI to parent under share capital reduction as funds must serve stated objectives

Editorial Note: The petitioner, a not-for-profit company, received Foreign Direct Investment (FDI) from its overseas parent company for the purpose of equity subscription. However, the petitioner later decided to return the funds to the parent company due to its inability to use the funds for its charitable purposes. The court held that while the petitioner received FDI for a legitimate purpose, foreign contributions made to not-for-profit entities must be used strictly in accordance with the company's objectives, particularly for promoting its charitable or non-profit activities. Therefore, the company could not return the funds to the overseas parent company under the pretext of reduction of share capital, as the foreign funds were intended to further the company's objectives and were subject to strict regulations under foreign contribution laws. Thus, the return of funds was deemed inappropriate, and the company could not use the guise of reducing share capital to return the foreign funds, as this would violate the legal framework surrounding the use of foreign contributions for charitable purposes.

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Tax Compliance Calendar for May 2025

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7th May	April 2025	TDS Deposit for the month of April 2025	Deposit of tax deducted at source
11th May	April 2025	GSTR-1 (Outward supply return)	Every regular taxable person who is required to furnish details of outward supply every month, is required to furnish monthly statement of outward supply for the month of April, 2025
13th May	April 2025	ISD Return	An Input Service Distributor is required to furnish monthly return of input tax distributed for the month of April, 2025
13th May	April 2025	GSTR-1 (Outward supply return)	Every regular taxable person who is required to furnish details of outward supply every quarter is allowed to furnish details of B2B outward supply made during the month of April, 2025, using Invoice Furnishing Facility (IFF)
15th May	January 2025 to March 2025	Quarterly statement of TCS	Furnishing of statement of TCS for the quarter ending on 31-3-2025
20th May	April 2025	GSTR-3B (Summary return	A regular taxpayer having aggregate turnover more than Rs. 5 crore in the preceding financial year is required to make payment of tax and furnish monthly return for the month of April, 2025.
22nd May	April 2025	Monthly Return	A regular taxpayer having an aggregate turnover of upto Rs. 5 crore in the previous financial year, whose principal place of business is in category A States, is required to make payment of tax and furnish monthly return for the month of April, 2025
24th May	April 2025	Monthly Return	A regular taxpayer having an aggregate turnover of upto Rs. 5 crore in the previous financial year, whose principal place of business is in category B States, is required to make payment of tax and furnish monthly return for the month of April, 2025
30th May	January 2025 to March 2025	Furnishing of challan-cum-statement in respect of TDS under section 194-IA/194-IB/ 194M/194S	Challan-cum-statement in respect of tax deducted under section 194-IA/194-IB/194M/194S during the month of April, 2025 to be furnished to Principal DGIT systems or DGIT systems or person authorised by him.

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Tax Compliance Calendar for May 2025

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
31st May	April 2025 to June 2025	Section 173 of Companies Act, 2013	Section 173 provides for holding four board meetings in a year in such a manner that not more than 120 days shall intervene between two board meetings. Clause 49 of SLA provides for holding atleast one board meeting in a quarter with the stipulation that the maximum time between two board meetings should not exceed four months.
31st May	April 2025 to June 2025	Clause 19(a), 19(b) and 41 of SLA	Standard Listing Agreement (SLA) provides for giving of notice of board meeting at least 7 days prior to each meeting. Outcome of the meeting is to be informed to Stock Exchange (SE) within 15 minutes of the closure of the Board Meeting.
31st May	FY 2024-25	Statement of report-able account under section 285BA & Statement of financial transaction	Statement of reportable account to be furnished by a reporting financial institution referred to in rule 114G & Statement of financial transactions for year ended 31-3-2025 to be furnished by person specified in rule 114E