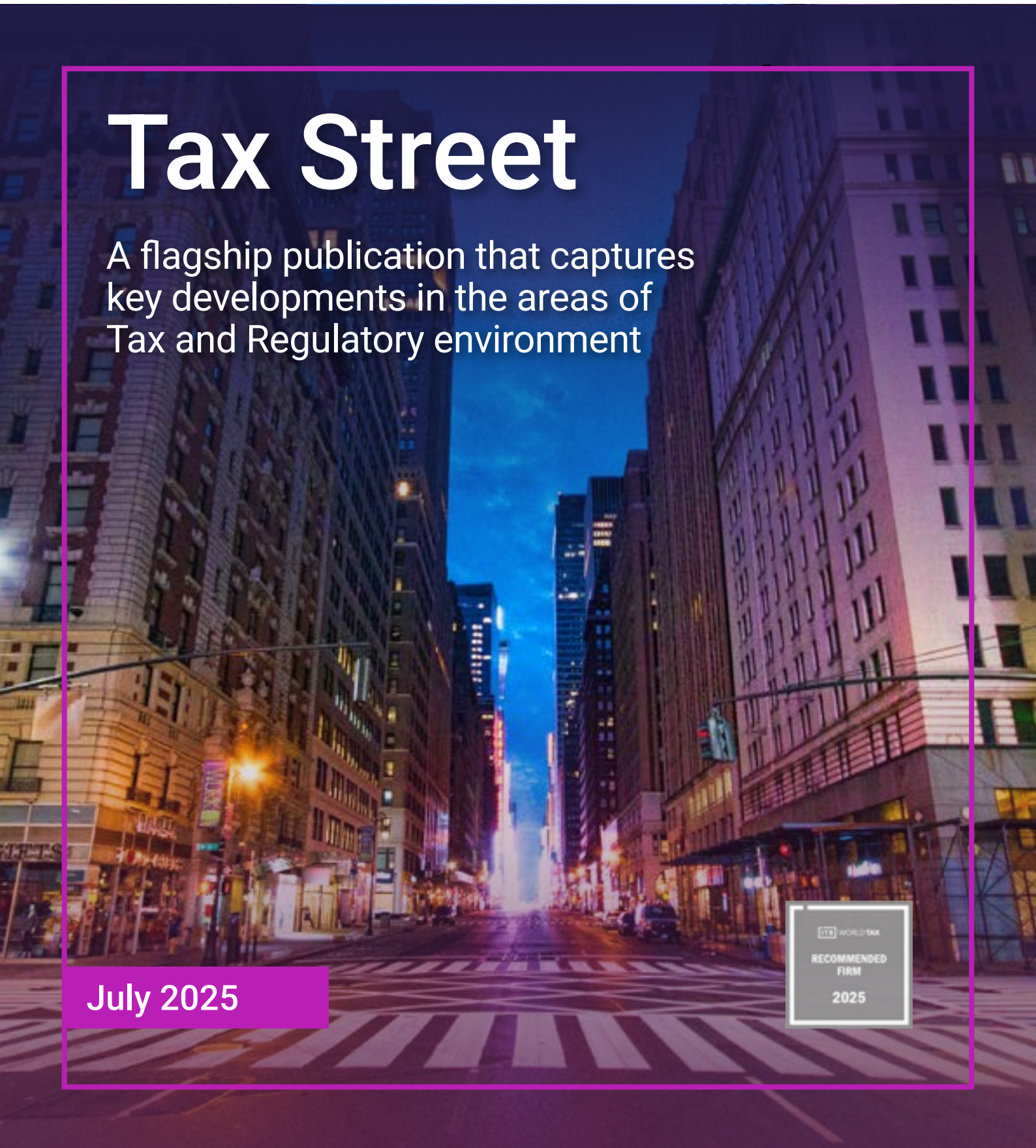
nexdigm

Tax Street

A flagship publication that captures key developments in the areas of Tax and Regulatory environment



July 2025

Introduction

Tax Street

We are pleased to present the latest edition of Tax Street – our newsletter that covers all the key developments and updates in the realm of taxation in India and across the globe for the month of July 2025.

- The 'Focus Point' elaborates upon the impact of the Split Verdict in Shelf Drilling Ron Tappmeyer on Assessment Timelines.
- Under the 'From the Judiciary' section, we provide in brief, the key rulings on important cases, and our take on the same.
- Our 'Tax Talk' provides key updates on the important tax-related news from India and across the globe.
- Under 'Compliance Calendar', we list down the important due dates with regard to direct tax, transfer pricing and indirect tax in the month.

We hope you find our newsletter useful and we look forward to your feedback.

You can write to us at taxstreet@nexdigm.com. We would be happy to hear your thoughts on what more can we include in our newsletter and incorporate your feedback in our future editions.

Warm regards,
The Nexdigm Team

Focus Point

Constitution of Larger Bench Sought Following Split Verdict in Shelf Drilling Ron Tappmeyer on Assessment Timelines

The time barring of the transfer pricing assessment cases has stirred significant debate in the Indian Transfer Pricing landscape (popularly known as the Roca Bathroom or Shelf Drilling case). Though more than sixty years old, the law has gone through numerous litigations, but the periodical changes in the law and the complexity of it have put the tax department and taxpayers at loggerheads. This underscores the Honorable Prime Minister of India's clarion call to make laws simple, reminding us of his words: "While making laws, our focus should be that even the poorest of the poor can understand the new legislation well." Yet the present reality is quite the opposite. When two Supreme Court (SC) judges deliver diametrically opposed interpretations of the same provision, it exposes not clarity but confusion. Such judicial divergence may be celebrated as a hallmark of democratic debate, but it simultaneously undermines the ease of doing business and weakens confidence in India's dispute resolution framework. If the law cannot speak with one voice at the highest court, how can businesses and taxpayers be expected to navigate it with certainty?

To put the issue in simple terms, the dispute arises in transfer pricing cases, when the taxpayer chooses to file objections against the draft order before the Dispute Resolution Panel (DRP), the clock for completing the assessment gets extended. The complexity stems from the interplay of two provisions:

- Section 153 of the Act[1], which governs the outer timelines within which assessment, reassessment, or re-computation must be completed (passing the final assessment order)
- Section 144C of the Act, which governs the procedure and timeline for raising objections before the DRP

To address these anomalies, the majority of High Courts (HCs) across the country refused to accept the revenue's argument for an extended timeline. Both the Madras High Court (in Roca Bathroom[2]) and the Bombay High Court (in Shelf Drilling[3]) categorically ruled in favor of taxpayers, holding that final assessment orders passed beyond the statutory deadline were time-barred and therefore liable to be quashed.

The ripple effect of these rulings was significant. A large number of similar cases would inevitably have been struck down on the same ground, leading to a substantial setback for the income-tax department. Recognizing the gravity of the issue, particularly given that the disputed additions collectively amounted to nearly INR 1300 Billion, the department escalated the matter to the Supreme Court. The apex court admitted the appeal, framing it as a pure question of law of great consequence, and directed that all related proceedings before lower courts be stayed until its final decision.

After a prolonged wait, when it was widely expected that the controversy would finally be settled, the Supreme Court delivered a split verdict. The two judges on the Bench could not agree on a common interpretation of the law, leaving the issue unresolved and necessitating reference to a larger Bench. Diving into the technical aspects of the ruling, the key takeaways can be summarized as follows:

1 Income-tax Act, 1961

2 Roca Bathroom Products Private Limited [TS-473-HC-2022(MAD)]

3 Shelf Drilling Ron Tappmeyer Limited [TS-485-HC-2023(BOM)-TP]

Technical aspect – non-obstante clause

At the heart of the controversy lies a non-obstante clause in Section 144C(4) which provides:

'The Assessing Officer shall, notwithstanding anything contained in section 153 or section 153B, pass the assessment order under sub-section (3) within one month …'

Taxpayers interpret this provision to mean that while the Assessing Officer (AO) must pass the final order within one month of receiving the DRP's directions. This does not extend the outer limitation period laid down under Section 153. In other words, the one-month requirement is a procedural timeline operating within the broader cap of Section 153, and cannot override or extend the statutory deadlines fixed therein. However, the other school of thought (department) says that while the AO is bound to act within one month from the DRP's directions, the non-obstante clause ensures that the outer limitation in Section 153 automatically stands extended to accommodate this process. Hence, Section 144C timelines prevail over the general cap in Section 153. The SC bench including Justice Nagarathna has sided with taxpayers, and in contrast, Justice Satish Chandra Sharma has sided with the department. Their views are as follows:

Justice Nagarathna (Taxpayer view)

- Sections 153 and 144C are distinct and not contradictory.
- Section 144C, introduced in 2009 to attract foreign investment, must be interpreted strictly to ensure speedy dispute resolution.
- Legislative intent must prevail; specific provisions cannot be diluted or overridden by general timelines.
- The DRP route is a beneficial option, and taxpayers should not be penalized with an extended limitation merely for exercising it.

Justice Satish Chandra Sharma (Revenue view)

- The Bombay and Madras HC interpretations are incorrect and unworkable.
- Section 144C prescribes a self-contained procedure with its own timelines, which must override Section 153.
- Courts must avoid interpretations that render the law ineffective; adequate time for DRP is necessary to protect natural justice.
- Since DRP proceedings are initiated at the taxpayer's option, they cannot claim prejudice from the resulting extension in timelines.

Conclusion

While it is apparent that Judge Nagarathna ruled in favor of taxpayers, quashed the orders, and Justice Satish allowed the appeal of the department. Considering this, the warring parties will again have to put forth the matters before the larger bench, consisting of three SC judges, including the Honorable Chief Justice of India.

Our Comment

- The case underscores the critical importance of procedural timelines in tax assessments.
- Tax officers must initiate proceedings promptly rather than waiting until the deadline. If transfer pricing references are made early in the departmental audit, a two-year window remains available, giving the TPO over 14 months to adjudicate, which is sufficient under current practices. Taxpayers, in turn, should prepare for earlier closure of audits.
- Although conceived as a fast-track remedy, the DRP has in practice become a procedural step before appeal to the Tribunal. Involving a neutral third party could enhance its credibility and effectiveness.
- The department should prioritize quality over quantity in assessments, focusing on substantive issues rather than volume, to reduce litigation and improve certainty.
- The upcoming Income-tax Bill offers an opportunity to resolve these anomalies. However, since the matter is sub judice before the Supreme Court, the government has not materially amended Sections 144C and 153 in the current draft.
- The view of the larger bench is now eagerly awaited, as it will provide much-needed clarity on the interplay between Sections 153 and 144C and set the course for future transfer pricing assessments in India. The larger bench's ruling will be decisive in restoring certainty to India's transfer pricing regime and will directly shape the balance between procedural safeguards and the ease of doing business.

From the Judiciary

Direct Tax

Is income from the sale of software licenses, software embedded in hardware, and related hardware support services taxable as royalty or fees for technical services in India?

Arista Networks Limited [TS-845-ITAT-2025(Bang)]

Facts

The assessee is a company engaged in providing cloud networking solutions and related products/services. Its return of income was scrutinized for receipts from India, including software sales, hardware, support services, and training.

The dispute concerned the taxability of three income streams:

- Sale of standardized software license
- Software embedded in hardware, and
- Hardware replacement and support services involving embedded software.

The assessee claimed these income streams were not taxable in India due to the absence of a Permanent Establishment (PE).

However, the AO held that the income from these sources was taxable as royalty in India. The AO stated that distributors had potential access to confidential proprietary information, including source code, which distinguishes it from mere shrink-wrapped software.

The AO also treated maintenance services as Fees for Technical Services (FTS) due to human intervention and applied a 10% tax. Despite the assessee's reliance on the Supreme Court rulings.

The assessee filed an appeal before the ITAT Bangalore challenging the order passed by the AO and DRP.

Held

The ITAT stated that the grounds raised by the assessee in the appeals concerning these income streams are allowed based on the following facts.

- In view of the Honorable Supreme Court's decisions, including the Engineering Analysis Centre of Excellence Pvt. Ltd. ruling, it is held that computer software is a literary work under the Copyright Act, with copyright conferring exclusive rights such as reproduction and distribution.
- The Supreme Court has clarified that software embedded in hardware constitutes a sale, not royalty, and without a PE in India, such income is not taxable.
- Upon reviewing the agreements of the assessee, it is observed that the confidentiality clause protects the assessee's copyright by limiting disclosure without granting rights to distributors. As an Original Equipment Manufacturer, the assessee sells hardware with embedded software and licenses standard software under strict, non-exclusive, non-transferable terms that prohibit copying or modification, granting only resale rights consistent with Supreme Court rulings.
- The distributor receives a limited license to resell software in object code form only, with no access to source code or reverse engineering; there is no evidence of source code provision, making the AO's claim baseless.
- Hardware replacement and support services involving embedded software are treated as the sale of hardware, not fees for technical services.

Our Comments

The case clarifies that income from the sale of software licenses, software embedded in hardware, and related hardware support services without a PE in India is not taxable as royalty or fees for technical services under the Double Taxation Avoidance Agreement (DTAA).

Whether ITAT can allow a deduction claim for ESOP expenses under Section 37(1) that was not originally filed or revised before the AO?

HDFC Bank Limited [TS-961-ITAT-2025(Mum)]

Facts

The assessee, Housing Development Finance Corporation Ltd. (HDFC), a housing finance company regulated by the National Housing Bank, filed its return of income under Section 139(1) of the Income-tax Act. The return was processed under Section 143(1) by the CPC, wherein certain additions and disallowances were made.

Aggrieved, the assessee filed an appeal before the CIT(A) challenging the disallowances. Additionally, it raised a fresh ground seeking a deduction of INR 2,167.8 million 37(1) for expenses incurred under the Employee Stock Option Scheme (ESOP). This amount represented the difference between the perquisite value and the fair value of the ESOPs computed under the Black-Scholes Model. However, the claim was not made in the original return, nor was a revised return filed.

The CIT(A) rejected the claim, relying on the Supreme Court decision in Goetze (India) Ltd. v. CIT, stating that a new claim cannot be entertained unless made through a revised return. Since the claim was made for the first time before the CIT(A) and not before the AO, it was held to be inadmissible.

Before the ITAT, the assessee argued that similar ESOP-related claims had been admitted and allowed in earlier years by the Tribunal in its own case. The assessee also relied on the Bombay High Court's ruling in Prithvi Brokers & Share Pvt. Ltd., which clarified that appellate authorities could consider new claims if the relevant facts are already on record.

The Departmental Representative (DR) supported the lower authority's decision, stating that the claim was rightly rejected as it was not part of the original return or assessment proceedings.

Held

The ITAT allowed the appeal by the assessee, HDFC Ltd., regarding the claim for deduction of ESOP expenses under Section 37(1) of the Income-tax Act. Although the claim was not made in the original or revised return, and was first raised before the CIT(A).

Relying on the jurisdictional High Court's decision in Prithvi Brokers and Shareholders Pvt. Ltd., the ITAT held that appellate authorities, including itself, can entertain legal claims not previously raised before the AO if the facts are on record and the issue is purely legal. The Tribunal also noted earlier favorable orders in the assessee's case for AYs 2013-14 to 2020-21 and relevant judicial precedents supporting the ESOP deduction as revenue expenditure.

However, since the claim was not verified in the present proceedings, the ITAT remanded the matter to the AO for fresh adjudication, directing the assessee to submit necessary details and the AO to examine the claim in accordance with law after giving the assessee a reasonable opportunity to be heard.

Accordingly, the appeal (ITA No. 1828/Mum/2025) was allowed and the matter remanded for reconsideration.

Our Comments

This case underscores the importance of permitting taxpayers to raise valid legal claims at the appellate stage if facts are on record. It reinforces that procedural barriers should not override substantive justice, especially for ESOP expense deductions under Section 37(1). The ruling affirms ITAT's power to admit additional grounds and ensure fair tax adjudication.

Alerts

Key Highlights GST Notifications and Clarification Circulars
4 August 2025
https://tinyurl.com/vtxes3ne

India-UK Double Contributions Convention (DCC) for Social Security
1 August 2025
https://tinyurl.com/2467sm26

Supreme court rules that Foreign Firm's Strategic Control via Indian Entity Creates Taxable PE in case of Hyatt International Southwest Asia Ltd
29 July 2025
https://tinyurl.com/2p3c7jbj

Redrawing the AE Line: Simplification That Complicates
23 July 2025
https://tinyurl.com/yu4m2xuc

Transfer Pricing

ITAT Ruling on Use of APA Margin for Prior Years

Phillips Foods India Pvt. Ltd. [ITA No.: 739/CHNY/2024]

The taxpayer is a captive contract manufacturer engaged in processing and exporting crab meat to its Associated Enterprise (AE). The Transfer Pricing Officer (TPO) rejected the taxpayer's TP documentation and benchmarking analysis and instead adopted the foreign AE as the tested party and proposed an upward TP adjustment of INR 139.8 million, which was incorporated by the AO in the final order.

Aggrieved, the taxpayer appealed before the CIT(A), contending that it should be considered the tested party. In support, it submitted a Unilateral Advance Pricing Agreement (APA) entered with the CBDT on 25 August 2022 for AYs 2021-22 to 2025-26, under which a 4.5% operating profit on cost was agreed as the arm's length margin. The taxpayer argued that its functional profile and the nature of international transactions remained unchanged across the APA years and AY 2015-16, and thus, the APA margin should be applied.

The CIT(A) accepted the taxpayer's contention, held the Indian entity as the tested party, and directed the AO to adopt the 4.5% APA margin for AY 2015-16. The Revenue appealed to the ITAT, arguing that the APA, dated 25 August 2023, was not in existence during the TP assessment and was admitted without following Rule 46A(3). It further contended that APA margins could not apply to non-APA years.

The ITAT upheld the CIT(A)'s decision, noting no functional differences between AY 2015-16 and the APA years. It affirmed that APA margins can be a valid benchmark for prior years when commercial conditions remain consistent. It further highlighted that the various judicial pronouncements relied on by the taxpayer held that the adoption of margin mutually agreed margin under the APA can be adopted as an arm's length profit margin for the relevant assessment year. The Revenue's appeal was thus dismissed.

Our Comments

As per the Income-tax Act, an APA is applicable for five consecutive assessment years and can also be rolled back for four preceding assessment years. The ITAT's ruling reinforces the relevance of APAs as a valid reference point for benchmarking even in earlier years, provided there is consistency in the functional profile and nature of international transactions. The decision is favourable to taxpayers and aligns with established judicial precedents, effectively managing transfer pricing risks by prioritizing commercial substance over mere timeline differences.

ITAT accepts the assessee's Berry Ratio as PLI for the distribution segment, and deletes the adjustment under the manufacturing segment

Samsung SDI India Pvt. Ltd [ITA Nos.3472 & 5475/Del/2024]

The taxpayer was engaged in procuring battery packs exclusively from a third party, Elentec India Pvt. Ltd. and supplying them solely to its Indian counterpart - Samsung India Electronics Pvt. Ltd., without maintaining inventory or warehousing. The taxpayer's role was limited to logistics and administrative support, and accordingly aggregated all its international transactions and deemed international transactions with AE and used the Berry ratio for benchmarking.

The TPO rejected the taxpayer's approach and applied the Transactional Net Margin Method (TNMM) using Operating Profit/Operating Cost as the PLI for both the distribution and manufacturing segments, treating the taxpayer as a medium-risk distributor due to its role in quality control and technical assistance.

Aggrieved by the TPO order, the taxpayer appealed to DRP, contending that the Berry Ratio (Gross Profit/Value Added Expenses) was the most suitable PLI for its low-risk, limited-function distribution segment, emphasizing its minimal role in pricing, quality control, and inventory. It relied on judicial precedents such as Sumitomo Corporation India & Mitsubishi Corporation India and OECD/UN guidelines. This ground was rejected by the DRP; however, for the taxpayer's one-month manufacturing operations, DRP accepted "Other method" as selected by the taxpayer. The AO ignored the DRP's direction to apply the "Other Method" for the manufacturing segment and continued with TNMM.

In the appeal to the ITAT, the ITAT ruled the matter in favor of the taxpayers. It held that the taxpayer operated in a special environment with predetermined suppliers and customers and did not undertake any value addition nor assume significant risks. The Tribunal accepted the Berry Ratio as the appropriate PLI for the distribution segment, noting that the taxpayer's functions and risks were adequately captured by its operating expenses. It relied on the Delhi High Court's ruling in Sumitomo Corporation India and other judicial precedents to support its conclusion.

Our Comments

The ITAT's acceptance of Berry Ratio aligns with international guidelines and Indian judicial precedents, emphasizing the importance of accurate FAR analysis and segmental benchmarking. The case also highlights procedural lapses by the AO/TPO in disregarding DRP directions, which were corrected by the Tribunal. Taxpayers operating under similar low-risk distribution models may find this ruling useful in defending their transfer pricing positions.

Tax Talk

Indian Developments

Direct Tax

Cost Inflation Index (CII) for FY 2025-26 to compute Long-Term Capital Gains u/s 48 Of The Income-Tax Act (the Act), notified

NOTIFICATION S.O. 2954(E) [NO. 70/2025/F. NO.370142/24/2025-TPL]

DATED 1 July 2025

The Central Government has notified the CII for FY 2025-26 as 376 for the purposes of computation of capital gains u/s 48 of the Act arising in AY 2026-27 and subsequent years.

IREDA Bonds Notified under section 54EC of the Act.

NOTIFICATION S.O. 3060(E) [NO. 73/2025/F. NO. 225/192/2023]

DATED 9 July 2025

As per section 54EC of the Act, an assessee can claim exemption of up to INR 50 lakh on long-term capital gains arising from the transfer of land, building, or both by investing in certain long-term specified assets. CBDT notifies certain bonds on a time-to-time basis as long-term specified assets.

The CBDT has now notified that bonds issued by the Indian Renewable Energy Development Agency (IREDA) on or after 9 July 2025, which are redeemable after 5 years, are classified as 'long-term specified assets' for claiming exemption under section 54EC of the Act.

Clarification Issued on Waiver Of Interest u/s 201(1A)(ii) / 206C(7) Of the Act.

CIRCULAR NO. 8/2025 [F. NO. 275/92/2024-IT(B), DATED 1 July 2025

DATED 1 July 2025

CBDT had issued directive by issuing Circular No. 5/2025 dated 28 March 2025, providing relief to taxpayers facing technical issues while making TDS (Tax Deducted at Source) and TCS (Tax Collected at Source) payments, stating that, if taxpayer initiates payment and the amounts is debited from its bank accounts on or before the due date but face delays in the actual crediting to the government due to technical glitches, the prescribed authority (i.e. (i.e. CCIT/ DG1T/ Pr.CCIT) may pass an order to waive the interest charged under sections 201(1A)(ii) and 206C(7) of the Act.

The CBDT has now clarified that an application can be filed for waiver of interest which was charged even before issuance of said circular if the application is filed within the timeframe of one year from the end of the financial year for which the interest is charged.

Relief From Higher TDS/TCS Rates Where PAN Was Inoperative But Made Operative By 30 September 2025

CIRCULAR NO. 9/2025 [F. NO. 275/04/2024-IT(B)], DATED 21 July 2025

DATED 21 July 2025

As per section 206AA or 206CC of the Act, the deductor or collector is required to deduct tax or collect tax at a higher rate in case of PAN of the deductee is inoperative (as a result of non-linkage with Aadhaar).

Taxpayers filed grievances on receiving notices for short deduction/collection of TDS/TCS due to inoperative PANs, resulting in demands raised by the Department. To address this issue, the board notifies that, no liability on the deductor/collector to deduct/collect tax at higher rates provided under sections 206AA/206CC in the following cases:

- For payments/credits from 1 April 2024 to 31 July 2025, if PAN is made operative by 30 September 2025.
- For payments/credits on or after 1 August 2025, if PAN is made operative within two months from the end of the month of payment/credit.

In all such cases, standard TDS/TCS rates will still apply.

Indirect Tax

Customs

India extends anti-dumping duty on Chinese Aniline imports for five years, with rates up to USD 121.79 per metric ton.

Notification No. 25/2025-Customs (ADD) dated 18 July 2025

The Ministry of Finance has issued a notification continuing the anti-dumping duty on Aniline imports from China for five years. The notification imposes varying duty rates: USD 36.90 per metric ton for one specific producer and USD 121.79 per metric ton for other combinations. The duty applies to goods under tariff subheading 2921 41, originating from or exported through China. This supersedes the previous 2021 notification and remains effective for five years unless amended earlier. Payment must be made in Indian currency using applicable exchange rates.

Countervailing duties imposed on copper wire rods from four Asian countries under tariff heading 7408

Notification No. 06/2025-Customs (CVD) dated 3 July 2025

The Ministry of Finance imposed countervailing duties on continuous cast copper wire rods imported from Indonesia, Malaysia, Thailand, and Vietnam under customs tariff heading 7408. Duty rates vary by country and producer, ranging from nil to 10.27% of landed value. The duties apply for five years from the publication date and supersede previous notifications from January 2020.

Foreign Trade Policy

DGFT eases import process: Warehousing not mandatory if authorization is issued before Customs clearance

Policy Circular No. 02/2025-26-DGFT dated 22 July 2025

The DGFT has clarified the interpretation of Para 2.12 of FTP 2023, which permits clearance of goods shipped or arrived before the issuance of an import authorization, provided they are not yet cleared by customs. Previously, such goods were required to be warehoused before clearance.

However, the new clarification states that warehousing is not mandatory if the import authorization is obtained after shipment (as per Bill of Lading) but before customs clearance. This change addresses practical difficulties faced by importers and aligns with the policy's intent to facilitate trade and reduce costs.

This relaxation does not apply to 'Restricted' items or those under State Trading Enterprises (STEs) unless specifically allowed by DGFT.

Quotes & Coverage

One person companies LLPs boost formalisation of economy new company registrations
4 July 2025
https://tinyurl.com/2s3rfnxe
Mint | Subodh Dandawate

How GST affects luxury hotels and resorts in India - CNBC TV18
9 July 2025
https://tinyurl.com/mj469uje
CNBC TV18 | Prabhat Ranjan

Technology Intervention in End-to-end Invoice Processing
3 July 2025
https://tinyurl.com/37a4c4s5
Fintedu | Nimish Shah

Improve Spend Visibility in Source-to-Pay: Unlock Strategic Procurement Success
21 July 2025
https://tinyurl.com/4bwa2cnt
CXO Today | Arjit Agarwal

Explained: Why Rule 31B is triggering fresh GST heat on online gaming firms
21 July 2025
https://shorturl.at/LTJIR
ET CFO | Prabhat Ranjan

Evolving contract management from paper trails to digital smart
1 July 2025
https://shorturl.at/1JzqV
WCC Journal | Alpana Shirgaonkar, Nabajit Das

Tax Talk

Global Developments

Indirect Tax

Implementation of Sales Tax on Digital Services in Maryland

Maryland implemented a 3% sales tax on digital and IT services from 1 July 2025, impacting cloud and software contracts. The 90-day tariff pause expired mid-July, potentially leading to higher tariffs starting in August. Additionally, several U.S. states have revised the scope of digital service taxes and updated marketplace facilitator regulations. These developments significantly heighten compliance requirements for companies operating in the technology and e-commerce sectors, and businesses are advised to closely monitor state-specific legislative updates to ensure timely compliance and mitigate potential risks.

Announcement of VAT increase in Estonia

Estonia raised its VAT rate from 22% to 24% as of 1 July 2025, affecting all taxable goods and services.

Extension of amnesty in Saudi Arabia

Saudi Arabia extends its VAT penalty amnesty through December 2025 and advances mandatory e-invoicing phases for large taxpayers.

Introduction of the Digital Tax Stamp system in Oman

Effective August 2025, Oman will enforce the Digital Tax Stamp (DTS) system on excisable goods such as tobacco products, carbonated and energy drinks, and alcoholic beverages. Under this mandate, all imported and locally manufactured excisable items must carry secure, digitally-coded tax stamps verifying tax compliance. Customs enforcement will begin in June 2025, followed by market-level enforcement from August 2025, prohibiting the sale of unstamped products.

Transfer Pricing

UK HMRC Consultation 2025: SME Exemption, ICTS & Transfer Pricing Documentation[4]

Since 1 April 2023, large UK businesses have been required to maintain OECD-compliant master file and local file transfer pricing documentation under the Transfer Pricing Records Regulations 2023. The HMRC consultation titled "Transfer pricing – scope and documentation" closed on **7 July 2025**, having been launched on **28 April 2025**, which seeks to strengthen UK transfer pricing documentation requirements and align them more closely with international standards. The key proposals are:

Proposal Removal of SME Exemption

The government proposes removing the medium-sized enterprise exemption from transfer pricing documentation requirements, retaining relief only for small enterprises (under 50 staff and turnover/balance sheet total below GBP 10 million). Thresholds would be converted from EUR 10 million to GBP 10 million, with exemption status changing only if limits are exceeded for two consecutive years.

Proposal International Controlled Transactions Schedule (ICTS)

The ICTS would require medium and large businesses, as well as certain permanent establishments with material cross-border related-party transactions, to file an annual schedule with their tax return. Small enterprises and low-value cases would be excluded.

4 Transfer pricing documentation - GOV.UK

ICTS Scope & Thresholds

Exclusions would apply for UK-UK transactions, APA-covered transactions, and exempt dividends. A GBP 1 million aggregate threshold for qualifying territory transactions and a GBP 100,000 per-category de minimis would apply, with higher thresholds for larger groups. Loan relationship reporting would have separate GBP 5 million/ GBP 100,000 thresholds.

Definition Updates

The government proposes continuing to use turnover, balance sheet total, and staff headcount as SME metrics, while simplifying the definition of 'enterprise', removing the 'partner enterprise' concept, and reviewing the 'non-qualifying territory' exception to focus on higher-risk jurisdictions.

Impact & Objective

These reforms aim to align the UK's transfer pricing framework with global best practices, enhance protection of the UK tax base, improve HMRC's risk assessment capability, and reduce unnecessary enquiries. Administrative burdens would be minimized by aligning ICTS data requirements with the existing local file/master file format and applying aggregation rules.

Timeline and Next Steps

Legislation reflecting these changes is expected to be included in the Finance Bill 2025–26, with potential implementation from January 2026.

Upcoming Events

Tax Law Conference & Awards
21 August 2025
Achromic Point | Sanjay Chhabria, Amit Amlani

GST in Action
29 August 2025
Achromic Point | Sanjay Chhabria, Aditya Nadkarni

Kuwait's Introduction to Transfer Pricing rules under the new DMTT law[5]

As part of Pillar 2 implementation efforts, Kuwait has issued executive regulations under the Domestic Minimum Top-up Tax (DMTT) framework. A key feature of these regulations is the introduction of transfer pricing rules that are broadly consistent with the OECD Transfer Pricing Guidelines. A high-level summary of the regulations is outlined below:

Arm's Length Principle

Group entities operating in Kuwait are required to ensure that transactions with related parties, whether domestic or international, must be carried out on an arm's length basis

Related Party

An entity is considered related if they are connected with each other or with a third person through ownership, control, or significant influence

Applicability

The transfer pricing rules apply to MNEs operating in Kuwait through entities and/or permanent establishments with global consolidated revenues of at least EUR 750 million in at least two of the previous four fiscal years.

Transfer Pricing Requirements

- A local file and a master file. Such documentation must be submitted within 30 days upon request; and
- A transfer pricing disclosure form containing at a minimum detail of related party transactions and the transfer pricing method applied. The form must be filed with the tax return and must be audited by an approved audit firm.

Transfer Pricing Adjustment

The tax authorities have the right to adjust prices of related party transactions if the arm's length principle is not followed.

5 mof.gov.kw/MOFServices/PDF/TaxMultinationalLegislation.pdf

Compliance Calendar

Direct Tax
Indirect Tax

7 August 2025

- Securities Transaction Tax - Due date for deposit of tax collected for the month of July 2025
- Commodities Transaction Tax - Due date for deposit of tax collected for the month of July 2025
- Declaration under sub-section (1A) of Section 206C of the Act to be made by a buyer for obtaining goods without collection of tax for declarations received in the month of July 2025 in Form 27C
- Due date for the deposit of Tax deducted/ collected for the month of July 2025. However, all sums deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day, where tax is paid without production of an Income tax Challan

14 August 2025

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of June 2025 in Form 16B
- Due date for issue of TDS Certificate for tax deducted under Section 194-IB in the month of June 2025 in Form 16C
- Due date for issue of TDS Certificate for tax deducted under Section 194M in the month of June 2025 in Form 16D
- Due date for issue of TDS Certificate for tax deducted under Section 194S in the month of June 2025 in Form 16E

20 August 2025

- GSTR-5A for the month of July 2025 to be filed by Non-Resident Service Providers of Online Database Access and Retrieval (OIDAR) Services
- GSTR-3B for the month of July 2025 is to be filed by all registered taxpayers not under the QRMP scheme

25 August 2025

- Payment of tax through GST PMT-06 by taxpayers under the QRMP scheme for the month of July 2025

10 August 2025

- GSTR-7 for the month of July 2025 to be filed by persons liable to TDS
- GSTR-8 for the month of July 2025 to be filed by E-Commerce Operators liable to TCS

11 August 2025

- GSTR-1 for the month of July 2025 to be filed by all registered taxpayers not under the QRMP scheme

13 August 2025

- GSTR-6 for the month of July 2025 to be filed by Input Service Distributors (ISDs)
- Uploading B2B invoices using Invoice Furnishing Facility (IFF) under the QRMP scheme for the month of July 2025 by taxpayers with aggregate turnover of up to INR 50 million
- GSTR-5 for the month of July 2025 to be filed by Non-Resident Foreign Taxpayers

15 August 2025

- Statement regarding preliminary expenses incurred to be furnished under the provision to clause (a) of sub-section (2) of section 35D of the Act, by the assessee (if the due date of submission of return of income is 31 July 2025) in Form 3AF
- Certificate to be issued by an accountant under clause (23FF) of section 10 of the Income-tax Act, 1961 (if the due date of submission of return of income is 31 July 2025) in Form 10-IJ
- Verification by an Accountant under sub-rule (3) of rule 21AJAVerification (if the due date of submission of return of income is 31 July 2025) in Form 10-IL
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of July 2025
- Monthly statement to be furnished by a stock exchange in respect of transactions in which client codes have been modified after registering in the system for the month of July 2025 in Form 3BB
- Monthly statement to be furnished by a recognized association in respect of transactions in which client codes have been modified after registering in the system for the month of July 2025 in Form 3BC
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending 30 June 2025, in Form 16A

Compliance Calendar

Direct Tax
Indirect Tax

30 August 2025

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of July 2025 in Form 26QB
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IB in the month of July 2025 in Form 26QC
- Due date for furnishing of challan cum statement in respect of tax deducted under Section 194M in the month of July 2025 in Form 26QD
- Due date for furnishing of challan cum statement in respect of tax deducted under Section 194S in the month of July 2025 in Form 26QE
- Annual Compliance Report on Advance Pricing Agreement (if the due date of submission of return of income is 31 July 2025) in Form 3CEF

10 September 2025

- GSTR-7 for the month of August 2025 to be filed by persons liable to TDS
- GSTR-8 for the month of August 2025 to be filed by E-Commerce Operators liable to TCS

11 September 2025

- GSTR-1 for the month of August 2025 by all registered taxpayers not under the QRMP scheme

13 September 2025

- GSTR-6 for the month of August 2025 to be filed by ISDs
- Uploading B2B invoices using IFF under the QRMP scheme for the month of August 2025 by taxpayers with an aggregate turnover of up to INR 50 million
- GSTR-5 for the month of August 2025 to be filed by Non-Resident Foreign Taxpayers

31 August 2025

- Application for exercise of option under clause (2) of the Explanation to sub-section (1) of Section 11 of the Act (if the assessee is required to submit a return of income on 31 October 2025)) in Form 9A
- Statement to be furnished to the Assessing Officer/Prescribed Authority under clause (a) of the Explanation 3 to the third proviso to clause (23C) of Section 10 or under clause (a) of sub-section (2) of Section 11 of the Act (if the assessee is required to submit return of income on 31 October 2025) in Form 10

7 September 2025

- Securities Transaction Tax - Due date for deposit of tax collected for the month of August 2025
- Commodities Transaction Tax - Due date for deposit of tax collected for the month of August 2025
- Declaration under sub-section (1A) of section 206C of the Income-tax Act, 1961 to be made by a buyer for obtaining goods without collection of tax for declarations received in the month of August 2025 in Form 27C
- Due date for deposit of Tax deducted/collected for the month of August 2025. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income tax Challan.

20 September 2025

- GSTR-5A for the month of August 2025 to be filed by Non-Resident Service Providers of Online Database Access and Retrieval (OIDAR) Services
- GSTR-3B for the month of August 2025 is to be filed by all registered taxpayers not under the QRMP scheme

Easy Remittance Tool

by Nexdigm

Form 15CA/CB Automation

- Review of tax position by experts
- Issuance of bulk certificates through Automated tool
- Repository - Access to entire set of documents
- Access to Detailed transaction wise reports
- Representation Support
- Generation 15CA bulk files & utility to generate Form A2

About Nexdigm

Nexdigm is a privately held, independent global organization that helps companies across geographies meet the needs of a dynamic business environment. Our focus on problem-solving, supported by our multifunctional expertise, enables us to deliver customized solutions tailored for our clients.

We provide integrated, digitally-driven solutions encompassing Business and Professional Services across industries, helping companies address challenges at all stages of their business lifecycle. Through our direct operations in the USA, Poland, the UAE, and India, we serve a diverse range of client base, spanning multinationals, listed companies, privately-owned companies, and family-owned businesses from over 50 countries. By combining strategic insight with hands-on execution, we help businesses not only develop and optimize strategies but also implement them effectively. Our collaborative approach ensures that we work alongside our clients as partners, translating plans into tangible outcomes that drive growth and efficiency.

At Nexdigm, quality, data privacy, and confidentiality are fundamental to everything we do. We are ISO/IEC 27001 certified for information security and ISO 9001 certified for quality management. Additionally, we comply with GDPR and uphold stringent data protection standards through our Personal Information Management System, implemented under the ISO/IEC 27701:2019 Standard.

We have been recognized over the years by global organizations, including the Everest Group Peak Matrix® Assessment, International Tax Review, World Commerce and Contracting, ISG Provider Lens™ Quadrant Report, International Accounting Bulletin, Avasant RadarView™ Market Assessment, and Global Sourcing Association (GSA) UK.

Nexdigm resonates with our plunge into a new paradigm of business; it is our commitment to ***Think Next.***

USA Canada Poland UAE India Japan

www.nexdigm.com

Reach out to us at ThinkNext@nexdigm.com

Follow us on

Listen to our podcasts on all major platforms