



# LEGAL NEWS LETTER

**DELHI GST PROFESSIONALS GROUP**



FOURTH EDITION: APRIL 2025



# LEGAL

## NEWS LETTER

### DELHI GST PROFESSIONALS GROUP

**PATRON:**

PRAVEEN KHANDELWAL  
MP, DELHI

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## **MESSAGE FROM PATRON IN CHIEF-PRAVEEN KHANDELWAL**



**@PRAVEEN KHANDELWAL**

Dear DGST FAMILY

What you all have achieved under the leadership of SV is beyond words and I have no proper adverbs to describe your success in the Joint Conference you organized with CAIT titled “7 Years of Indian GST-WAY AHEAD”. At NDMC Convention Centre, New Delhi on 5<sup>th</sup> April 2025 – a day we all will cherish for ever.

The total professional approach shown by you all – whether it be dress, welcoming delegates, arrangement of breakfast and lunch- was absolutely rocking. Well done the entire Team who organized such a phenomenal event.

The Conference Hall at NDMC Convention Centre never looked so amazing and beautiful – the red carpets, the metal logos of DGST and CAIT, the beautiful boards with brass letters - just very impressive it was indeed. Thank you for showing the world that you all can achieve anything possible. CAIT Team too learnt many lessons.

Above all, as I felt and as per immense feedback received by me in person, the topics were chosen with a lot of care and touched a very wide spectrum of traders, MSMEs and young professionals. And the Speakers – all of them – just delivered something unimaginable, to the point, crisp and understandable by the audience in front. Well-done the New Speakers Team and let me tell you none of us could say the speakers were first time speakers in such gatherings. More so, I was happy that SV chosen the CAs and Advocates in equal proportions – that is very heartening for me to know that this group will not be biased against a particular set of professionals. For us in this Group all are very important and shall remain so for ever.

How do I not speak for such wonderful Mementos and Certificates for the entire organizational Team including the Speakers! Indeed, heart touching gifts for them to cherish memory of this event for a long time. Our key lady Members. CA. Rashmi Jain and CA. Renu Sharma deserve special mention for such a good choice.

The team under SV leadership is doing a pro-bono service to trade, industry and professionals and it is my dream that this should be kept up and scale should be enhanced asap.

And when the idea of Moot Tribunals was discussed with me by SV, I felt thrilled as no Association has ever thought of or done such innovating things. That is why I told SV, CAIT will sponsor such a big step taken by DGST Group and CAIT will bear the cost - the idea was that entire community of professionals in the country should learn Tribunal working and especially the younger generation should look forward to teams like DGST to learn and progress in this field and learn litigation strategies before such Tribunals in the immediate future.

Well-done DGST Team. To my dearest friend SV, a big congratulation for his tremendous effort and I wish him and DGST Team the best in coming times – more, so the second CAIT/DGST Conference in October 2025 in Delhi.

And 4<sup>th</sup> E News Letter – well another great step to be regular in issuing such E News Letter that is proving very helpful to a vast GST Community.

(PRAVEEN KHANDELWAL)



## MESSAGE FROM EDITOR

@ ADV. SV

KUDOS TO THIS WONDERFUL FAMILY.

I am indeed thrilled to write this message and feel on cloud nine to do so.

What a wonderful Conference your core team lead by Narender Ahuja organised at NDMC Convention Centre, New Delhi on 5th April 2025 on the subject "7 Years of Indian GST - Way ahead". And as much praise I could personally shower on all the Speakers will be insufficient - hats off to all of them. They did a wonderful job and the audience was too happy.

And the hospitality group led by Rajmani Jindal, Rashmi Jain, and Renu Sharma - what to say about arrangement of breakfast, lunch and high tea. I have not ever had such delicious and well cooked food on all three occasions. Even Praveen Khandelwal ji mentioned them in his message.

Who would believe that your group organised this entire event pro-bono with a few sponsors. And our group is capable to organise another one on the same basis.

Get ready for another big event in October this year and the subjects will be totally different and encouraging for all the professionals.

E Newsletter is going in time and your core team is doing a wonderful job. New writers are joining and their articles are getting published and circulated all over India to crores of readers through CAIT.

The dresses were talk of the town - both for men and for women. Rajmani Jindal selected the sarees and, if I may say so here without her permission, she forcibly gifted all sarees to all the women members who graciously accepted the same without any hitch. Rajmani Jindal - on behalf of all the women a big Thank you.

Another first in this profession - MOOT GST TRIBUNAL. On 5th May 2025 at Constitution Club New Delhi, fully sponsored by CAIT. The DGST Mission is to spread education and train youngsters for future ready litigation at Tribunal level all India. Tribunal is going to be hybrid model and hence all of you can practice anywhere in India, more so when the laws are the same for every State. Great opportunity for professional excellence - give your heart and soul to this initiative - and all seniors shall ensure hand holding. Do not shy away. All the speakers are first time tribunal speakers - and let me tell you the appeals they have prepared will surprise many a seasoned lawyers including yours truly. Well Done. More Moot Tribunals in next six months - every month and at least 15 speakers to be trained at every Moot Tribunal.

Well Pakistan again playing dirty without realising what damage it is causing to its own population - surely a failed State as the entire world calls it. Our group seriously offers heartfelt condolences to the families of those who were martyred by the terrorists.

Donald Trump US President is not willing to relent and his inflexibility is causing a lot of damage to the world as a whole - but new equations are emerging and we may see a different world order emerging soon - and hopefully India will play a big role.

More activities are planned for the group - a group picnic is contemplated by your Convenor soon nearby Delhi and that would be wonderful occasion to know each other better.

Before I end, a big thank you to our big Brother PK Sahib for his continuous support, our gratitude to H C Bhatia Sir for blessing all the speakers at the conference.

Keep politics out of this Group - if you want to remain a cut above the rest and let politicians not enter this group. And within the group too please avoid playing any kind of games or politics - this will destroy the spirit of this group.

*And always remember for ever, what others do depend upon their circumstances and what we must do must be governed by our own special circumstances.*

*Your group shall expand its wings in education spread.* We just conducted a GST workshop for All India Tax Lawyers at Chakrata where Narender Ahuja delivered a powerful presentation on ITC Mechanism. We are soon going to conduct moot tribunals in remote areas of NCR.

Keep the glue intact and never ever talk loose about your group - little skirmishes or disagreements are signs of growth. Sort them out before these become bigger. Learn to say sorry always, it costs nothing. It humbles us.

Finally please be clear this is not a group which is dictated by one man - you have a core team of 12 people who decide the topics, events and other collateral issues.

Keep up the goods work DGST TEAM.

God Bless you all

## Message from the Dy. Editor



@ADV. KUMAR JEE BHAT

Arise, awake and stop not till the goal is reached. " Swami Viveka Nand:

The phrase emphasizes the importance of

- 1       Determination Arising and taking action towards one's goals.
2.       Perseverance: Awaking to the challenges and staying committed
- 3       Unrelenting effort: Not stopping until the goal is achieved

The joint conference of CAIT AND DGST Group was the accomplishment of the above quote of the Swami Vivekananda. The conference was a source of information and available remedies regarding all legal problems faced by the traders and the faculty members. The discussions were so crisp and relevant that everybody who attended the conference was satisfied about the material discussed and explained in simple language. The topics were so chosen which were the burning problems faced by the professionals and the traders and the procedural redress suggested by the speakers was wonderful and well taken by the audience. All the credit goes to our mentors and the patron Advocate Sushil Verma ji, Mr. Parveen Khandelwal, MP and Gen Sec. CAIT and Mr. Sudir Cheke, without whose vision it was not possible. The direction, thought process and conceptualization of the program of the Two was marvelous and thought provoking and well taken by the team working hand in glove with the Mentor and the Convener, bore the fruits of success.

The Souvenir released on the day of the Conference was full of material which will be useful to all who attended the meeting and also those who did not. It is a material worth reading and to be kept for ready reference. The articles published were equally of good quality and material which referred to the current topics. We as Editor and Dy. Editors took keen interest in selection of topics and language



to be used so as to make it easy to understand for every one and not making it all legal not to be understood by a common trader the response of the public was very encouraging. The tireless efforts

of our chief Editor are worth appreciation and it is his dedication which gives us inspiration to work hard. The Catering arrangements of the Conference were equally top class.

The response has made us more active to innovate new legal perspectives for the young fraternity who are coming into profession. We are conducting a one-day moot court session where we will demonstrate the working of Tax Tribunal pleading of cases, arguments of the opposite parties and other procedures adopted by the registry while admitting the appeals. We are keeping our fingers crossed for the day to come.

We are also releasing our fourth issue of E-News Letter on the 5th of May 2025

With best regards

KUMAR JEE BHAT

## Message from Deputy Editor:



@ADV. RAJMANI JINDAL

Respected members Happy Financial Year 2025-2026.

I welcome you all once again in our continuous series of E- NEWSLETTER, started by DGST group in this year in January 2025 - this will be fourth edition of 2025.

The year is not only significant, historic and meaningful for all DGSTIANS (belong to DGST group) but also a breakthrough because of terrific mega event jointly organized by CAIT (Confederation Of All India Traders) and Delhi GST Professionals Group on dated 5<sup>th</sup> April 2025, a full day conference at NDMC Convention Centre, New Delhi on the topic *“7 years of India’s GST- stakeholders experiences and way ahead”*. The spectacular and unique thing about the conference is that it was totally free of charge for the participants for the benefit of young professionals.

Our patron Sh. Praveen Khandelwal, MP & General Secretary of CAIT was our chief guest, Sh. Sudhir Cheke, Additional Commissioner GST Search and Seizure Pune and Sh. Sanjiv Ahuja, IAS, former Special Commissioner Delhi GST and now Secretary Tourism Govt. of Goa were Guests of Honor.

The DGST professional group was also privileged by the presence of Sh. H.C. Bhatia ji, our guru and past President of STBA and a mentor for almost the entire Sales Tax Bar Association.

The DGST Group also paid a moving homage to our mentor whose presence was felt in the entire event.

The splendid performance of our speakers, all coveted members of DGST Professional Group, groomed by none other than our mentor Sh. Sushil Verma Sir, on very relevant, important and burning topics. The professional gathering of 250 plus and members of various trade and industry, was spellbound, fascinating and enthralling. There were wow moments as nobody wanted to be away or miss even a bit of these precious moments and wanted to be witness of this mega event. (see pics in the gallery)

The souvenir released on the occasion is precious on many accounts as it carries knowledge of wisdom on the subject as well as values nurtured in the group in the form of gallery pictures.

Talking about the efforts of core committee is like showing light to Sun. whatever is described here about the dedication, commitment, devotion, enthusiasm and zeal is less. The whole team worked

tirelessly, sleeplessly day and night under guidance of our Mentor Sh. Sushil Verma Ji. It will not be exaggeration of statement to say that he is the real hero behind the success of this mega conference. The DGST professionals group and I also want to place our sincere appreciation for the hard work day and night tirelessly by Sh. Narender Ahuja, our convener. I also want to place sincere appreciation for Dr. Rahul Kakkar for 5<sup>th</sup> April 2025 for his master anchoring in the event. Well done Rahul.

The DGST group felicitated all the dignitaries with mementos, planters, shawls and statues. All the speakers and members of core committee were also felicitated with mementos and certificates.

I take this opportunity to thank the whole team of CAIT and our chief Patron Sh. Praveen Khandelwal ji, and our core team members without them this event would not have been possible.

Our DGST professional group is also pioneer in holding two -day conference on 4-5th March, 2025 on Income tax bill 2025, which has become law now as Parliament has passed it on 25<sup>th</sup> March 2025, by repealing old income tax act 1961. There were discussions on various aspects of new law on Income Tax. A large number of professionals attended the conference with great enthusiasm. Moreover, this is the first time that DGST professional group delved on income tax side also.

The DGST GROUP is touching new heights consistently, may God bless us all.  
Looking forward for further positive development.

@ Advocate Rajmani Jindal

## Message from Dy. Editor



**@CA C.K. GUPTA**

Dear Esteemed Members

We are delighted to announce that our Delhi GST Professionals Group is launching its fourth E-Newsletter in May, 2025 under the esteemed mentorship of Sh. Sushil Verma ji Advocate.

It is with immense pride and pleasure that our DGST Professionals Group has successfully organized its first GST Conference in collaboration with CAIT on dated April 5, 2025 in Delhi. The theme of the conference was ``7 YEARS OF INDIA`S GST – STAKEHOLDERS EXPERIENCES AND WAY AHEAD.``

The idea of this conference was conceptualized by Sh. Sushil Verma ji (Our Mentor), Sh. Narender Ahuja ji (Our Convenor) and Sh. Praveen Khandelwal ji (Member of Parliament and General Secretary of CAIT). The occasion was graced by Sh. Praveen Khandelwal as chief guest, Sh. Sudhir N. Cheke as guest of honour and Sh. Sanjiv Ahuja as guest of honour.

On this occasion a Conference Souvenir was also released by the dignitaries. This special publication is a tribute to the collective wisdom of our distinguished professionals and thought leaders.

I take this opportunity to express my heartfelt gratitude and appreciation to the entire DGST Professional Group team, chief guest, guest of honour, contributors, organizers, speakers and participants who have played a crucial role in making this a big international event and conference souvenir a reality and I am proud to be a part of this journey.

Together, let us work towards fostering greater understanding and excellence.

With Warm Regards,  
C.K.GUPTA (CA)

## Message from the Convener



@ ADV. NARENDER AHUJA

Dear Readers,

With all your love and devotion your group is now releasing FOURTH E Newsletter and in time; in addition to the Souvenir published at the time of the Conference. I think this is a great work done by all of you. And our group is worth 200 Family Members- not a small achievement.

And our Newsletter is going places in India and people are giving beautiful reviews especially from the trade and from young professionals. This is what the mission of the Group is.

. **“Today is your opportunity to build the tomorrow you want – KEN POIROT, aptly amplifies our mission of service to the people and we together are building a crop of young honest and highly skilled professionals – both Advocates and CAs without any bias, whatsoever.**

Two key moments of our Group: The first one was held on 02<sup>nd</sup> April 2025 in which SV sir on his own delivered a very attractive deliberation on the topic of Input Tax Credit and search and seizure. It was a full house and the people were not tired and listened till the end of the session that lasted till 05.00 P.M.

Another great event was held in the form of Mega Conference on **“7 Years of GST – A way forward”** at the NDMC Convention Centre. The conference was organized in collaboration with THE CONFEDERATION OF ALL INDIA TRADERS (CAIT) on 05.04.2025.

Sh. Praveen Khandelwal, Member of Parliament from Chandni Chowk and General Secretary of CAIT was the chief guest for the conference. Apart from him, Sh. Sudhir N. Cheke, Additional Commissioner, Investigation wing, Sholapur (Pune) and Sh. Sanjeev Ahuja, IAS - ex Special Commissioner, and Director of Planning was the guest of honour.

Over 250 GST stakeholders participated and the Group paid a loving tribute to its Mentor RAJ K BATRA and also welcome H C. Bhatia another mentor of the group. What a touching moment was that?

The Team DGST under the strong leadership of SV Sir did a tremendous job to make the event successful. The hard work of the team was at its peak and all the members of the conference committee were committed to their duties. No event can be so successful without the team work and in the words of Michal Jordan **“Talent wins games, but teamwork and intelligence wins championships.”** I salute to each and every member of the team from the core of my heart to make this event successful.

The idea to launch nine new speakers including myself was recognized and accepted by all the attendees and all the speakers did justice to their role. It was a remarkable event that will be remembered for a long.

SV Sir now has a lifelong mission – to train youngsters on the parameters of honesty, integrity and. Knowledge and to be great humans first than professionals. And I personally see changes in many of our youngsters who openly acknowledge the same at all forums.

Now on 5<sup>th</sup> of May 2025 your group is organizing first of its kind event – **“The Moot Tribunal”** at the Constitutional Club of India. An event in which the young and first timer will be given a chance to appear before the court. This is the first ever Moot Tribunal at this scale where more than 140 professionals and other stake holders are going to attend. And nine first time tribunal speakers (Both Advocates and CAs) are going to argue the appeal with SV Sir as Government Counsel and three of our senior Members sitting on the dais of this Moot Tribunal. What a wonderful moment this is going to be and this is being fully sponsored by CAIT. Yes, friends that is how your group is reaching new heights as a Knowledge Partner. And this month your Group also conducted a GST event for All India Tax Lawyers, having over 50 members, at Chakrata and all participants gave beautiful reviews – SV Sir and myself conducted this session.

Wishing a grand success for all the upcoming events and looking forward for new achievements.

God bless you all.

@Narender Ahuja



@ Adv, Minakshi Jain

## **“Where and When: Cracking the Code of GST Supply Rules”**

### **Time and Place of Supply under GST**

The Goods and Services Tax (GST) regime in India is a destination-based, comprehensive indirect tax levied on the supply of goods and services. To determine the correct tax liability, the Time of Supply and Place of Supply are two critical concepts under the GST framework. These concepts help identify when and where a supply is deemed to occur, ensuring correct classification as intra-State or inter-State supply, and the appropriate tax rate and tax jurisdiction.

#### **Time of Supply**

Time of supply determines the point in time when goods or services are considered supplied, which consequently fixes the liability to pay GST. It varies depending on whether the supply is of goods or services, and whether the transaction is under a forward charge, reverse charge, or voucher-based supply.

Relevant sections:

- Section 12 – Time of supply of goods
- Section 13 – Time of supply of services
- Section 14 – Change in rate of tax and its impact on time of supply

*The latest updates emphasize e-invoicing compliance (now extended to businesses with turnover above ₹5 crore), linking invoice date more closely to time of supply for goods.*

#### **Place of Supply**

Place of supply determines the location where the supply is deemed to take place, which is essential for identifying whether a supply is intra-State (attracting CGST + SGST/UTGST) or inter-State (attracting IGST).

Relevant sections:

- Section 10 & 11 of CGST Act, 2017 – Place of supply for goods
- Section 12 & 13 of IGST Act, 2017 – Place of supply for services

*The latest jurisprudence and circulars have clarified place of supply rules in emerging areas such as online gaming, intermediary services, and cross-border cloud services, especially in light of global digital economy transactions.*

**Summary Table**

<b>Supply Type</b>	<b>Section</b>	<b>Key Rule</b>
Goods – Time of Supply	Section 12 CGST	Earlier of invoice or payment
Services – Time of Supply	Section 13 CGST	Earlier of invoice (if timely) or payment
Goods – Place of Supply	Section 10,11 IGST	Where goods are delivered or used
Services – Place (Domestic)	Section 12 IGST	Location of recipient / specific rules
Services – Place (Intl)	Section 13 IGST	Location of recipient / special rules

**Understanding provisions of Time of supply & Place of supply under the GST Law:**

**1. Time of Supply**

**A. Time of Supply for Goods (Section 12 of CGST Act, 2017)**

The time of supply of goods is the earlier of the following:

- **Date of issue of invoice by the supplier:** - As per section 31 of the CGST Act, an invoice for supply of goods needs to be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. However, in other cases, an invoice needs to be issued before or at the time of delivery of goods or while making goods available to the recipient. Similarly, an invoice for supply of services needs to be issued before or after the provision of service but not later than thirty days from the date of provision of service.
- Last date on which invoice should have been issued (i.e., within 30 days from the date of supply), or
- Date of receipt of payment, whichever is earlier.

**Example:** *If Supply date is 10th April, Invoice issued on dated 15th April and Payment received on dated 12th April then Time of supply is 12th April (earliest of invoice and payment).*

**B. Time of supply of Services (Section 13 of CGST Act, 2017)**

The time of supply of services is the earlier of:

- Date of issue of invoice by the supplier (If the invoice is issued within the legally prescribed period under section 31(2) of the CGST Act) or the date of receipt of payment, whichever is earlier
- Date of provision of service (If the invoice is not issued within the legally prescribed period under section 31(2) of the CGST Act) or the date of receipt of payment, whichever is earlier
- Date on which the recipient shows the receipt of service in his books of account, in case the aforesaid two provisions do not apply

(If invoice is not issued within time, then it is the date of provision of service or receipt of payment, whichever is earlier).

**Example:** *Service provided on dated 5th May, Invoice issued on 6th June (after 30 days), payment received on 20th May, then Time of supply becomes 5th May (since invoice was delayed).*



### **C. Reverse Charge Mechanism (RCM) – Section 12(3) and 13(3)**

For both goods and services under reverse charge, the time of supply is the earlier of:

**I. Time of supply of goods when tax is to be paid on reverse charge basis is earliest of the following dates:**

- Date of receipt of goods
- Date on which the payment is entered in the books of accounts of the recipient or the date on which the payment is debited in his bank account, whichever is earlier
- Date immediately following 30 days from the date of issue of invoice or any other legal document in lieu of invoice by the supplier.

However, if it is not possible to determine the time of supply in aforesaid manner, then the time of supply is the date of entry of the transaction in the books of accounts of the recipient of supply.

**II. Time of supply of services when tax is to be paid on reverse charge basis is earliest of the following dates:**

- Date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier
- Date immediately following 60 days from the date of issue of invoice or any other legal document in lieu of invoice by the supplier

However, if it is not possible to determine the time of supply in aforesaid manner, then the time of supply is the date of entry of the transaction in the books of accounts of the recipient of supply.

### **C. In case of Vouchers (Section 12(4) and 13(4))**

- If the supply is identifiable at the time of issue of voucher, then time of supply is date of issue.
- Otherwise, it's the date of redemption.

### **D. Time of supply of goods or services in Residual Cases (Section 12(5) and 13(5))**

In case it is not possible to determine the time of supply under aforesaid provisions, the time of supply is:

- Due date of filing of return, in case where periodical return has to be filed
- Date of payment of tax in all other cases

### **Recent Amendments/Updates:-**

**E-Invoice and QRMP Scheme:** From 1st August 2023, all registered persons having turnover exceeding ₹5 crores are mandatorily required to issue e-invoices.

The time of supply for such persons is linked with invoice generation through Invoice Registration Portal.

**Amendment in Section 16(4):** With effect from 1st October 2022, ITC can be availed only up to 30th November following the end of the financial year in which the invoice is issued, indirectly impacting time of supply compliance.

## 2. Place of Supply

Place of supply determines which state gets the GST revenue and whether a supply is intra-State (CGST+SGST) or inter-State (IGST).

### A. For Goods (Sections 10 and 11 of IGST Act, 2017)

#### Section 10 – Where location of supplier and recipient are in India:

Nature of Transaction	Place of Supply	Example
Involves movement	Where delivery ends	Mumbai to Delhi → Delhi
No movement	Location at delivery	Sale within warehouse
Installation at site	Place of installation	Machinery fixed in Surat
On board conveyance	Where boarded	Flight from Delhi, boarded in Delhi

#### Section 11 – Where location of supplier or recipient is outside India:

- Import: Place = location of importer.
- Export: Place = location outside India.

### B. For Services (Sections 12 and 13 of IGST Act, 2017)

#### Section 12 – Supplier and recipient both in India:

Nature of Service	Place of Supply
Immovable property	Where property located
Event admission/training	Where event occurs
Transportation of goods (not courier/mail)	Destination of goods

#### Section 13 – If either party is outside India:

- General rule: Place = location of recipient.
- Special services like intermediary, online services, transportation, etc., have specific rules.

## 3. Change in Rate of Tax in respect of supply of goods or services

The normal time of supply rules changes if there is a change in the rate of tax of supply of goods or services. In this scenario, time of supply has to be determined in the following manner:

Supply is completed before the change in rate of tax:

Invoice issued before the date of change in tax rate	Payment received before the date of change in tax rate	Time of supply	Applicable rate of tax
No	No	Earliest of the date of invoice or payment	New rate of tax
Yes	No	Date of issue of invoice	Old rate of tax
No	Yes	Date of receipt of payment	Old rate of tax

However, the special procedure for payment of tax by suppliers of goods (other than composition dealers) notified by Government vide **notification no. 66/2017-Central Tax dated 15.11.2017** under

**Section 148 of the CGST Act, 2017**, will continue to govern even in the above situation. In a nutshell, suppliers of goods other than composition dealers will have to pay tax at the time of issue of invoice only.

#### **Date of receipt of payment in case of change in rate of tax**

Normally the date of receipt of payment is the date of credit in the bank account of the recipient of payment or the date on which the payment is entered into his books of account, whichever is earlier. However, in cases of change in rate of tax, the date of receipt of payment is the date of credit in the bank account if such credit is after four working days from the date of change in rate of tax.

#### **Judicial Pronouncements and Advance Rulings**

##### **Bill to Ship to Model not limited to only three parties.**

- AAR Rajasthan in Re: Sanjog Steels Pvt. Ltd.

Facts: SSPL manufactures and supplies TMT bars under brand names, “Rathi Powertech” under a licensing agreement with M/s. RSE and M/s. RPG.

##### **The supply chain involves:**

SSPL → RSE → Goyal Alloys Pvt. Ltd. → Final Customer (X)

But physical movement is directly from SSPL to X, following the “Bill to Ship to” model.

Questions Raised and Rulings Given:

1. Whether “Bill to Ship to” mode under Section 10(1)(b) of IGST Act is permissible in this supply chain?

Ruling: Yes. The transaction is permissible under Section 10(1)(b). The provision does not limit the number of parties and contemplates such third-party directed deliveries.

Therefore, the supply from M/s SSPL to M/s X on a “Bill to Ship to” mode as per provisions of sec 10(1)(b) of IGST Act is permissible

- **Input Tax Credit Of GST paid in Bill-to-ship-to model, available**

AAR Rajasthan in Umax Packaging- Ruling no. RAJ/AAR/2018-19/23 dated 02-11-2018

Section 10(1)(b) of the IGST Act 2017, as referenced in the ruling, is that when goods are delivered by the supplier to a recipient or any other person on the direction of a third person (who acts as an intermediary or agent), the third person is deemed to have received the goods. In such cases, the place of supply of the goods is considered to be the principal place of business of that third person.

The applicant is eligible to claim input tax credit (ITC) on the IGST charged by **M/s. Uma Polymers Ltd.**, in accordance with the provisions of Section 16 and 17 of the CGST Act, 2017.

#### **4. Importance in GST**

The Time and Place of Supply provisions under GST are crucial as they determine when and where a supply of goods or services is considered to have occurred, directly impacting the calculation of GST liability. Here’s why these provisions are so important:

##### **1. Determining the Applicability of GST:**

- **Time of Supply:** The time when the supply occurs is essential to determine which tax period the transaction should be recorded under, and therefore when the tax is to be paid. It ensures that the GST is accounted for in the correct tax period.

- **Place of Supply:** This determines which state or Union Territory GST should be applied, as GST is a destination-based tax. If the place of supply is in a different state from where the seller is located, IGST applies instead of CGST and SGST.

#### **1. Taxability Based on the Location:**

- The Place of Supply decides whether the transaction is intra-state (within the same state) or inter-state (between different states).
- This is important because the rules for applying CGST/SGST (for intra-state) versus IGST (for inter-state) are determined based on where the supply takes place. This classification impacts the way tax is calculated and who should collect and remit it.

#### **3. Input Tax Credit (ITC) Eligibility:**

Correctly identifying the Place of Supply ensures that businesses can claim Input Tax Credit (ITC) on purchases made for business purposes, provided they follow the prescribed rules. Misidentifying the place can lead to disallowed credits and penalties.

#### **4. Revenue and Compliance:**

- Properly applying the Time of Supply helps ensure timely payment of GST and prevents late fees or interest charges. For example, if a business invoices before a service is completed but doesn't pay tax by the due date, it could lead to penalties.
- The Place of Supply provisions ensure that the revenue from a transaction goes to the appropriate state, which is crucial for state revenue collection under GST.

#### **5. Exemptions and Special Provisions:**

- Certain supplies are subject to exemptions or special provisions based on their time or place of supply. For example, export of goods and services is treated as a zero-rated supply, meaning that GST doesn't apply, and ITC is refunded.
- Similarly, the place of supply for goods like exports is treated differently, as it is considered to be outside the scope of Indian GST.

#### **6. Avoidance of Disputes:**

The Time and Place of Supply rules help reduce disputes between taxpayers and tax authorities. By clearly defining when and where a supply occurs, it minimizes confusion and challenges over tax liability, timing, and place for cross-border transactions.

Minakshi Jain



**Parveen Kumar Mahajan**  
**Advocate**

### **SEEKING CANCELLATION OF GST REGISTRATION AFTER CLOSE OF BUSINESS**

This Article is based on personal experience where the registered person applied for cancellation of registration on the basis of close of business but after passing of years the Authority rejected such application for cancellation of registration. The GST Authority is too casual to process the application furnished for cancellation of registration. The GST Authority do not bother to follow the provisions contemplated under the GST Act and Rules and not following the guidelines issued by the CBEC while processing the application for cancellation of registration.

The lapses being happened by the GST Authority are discussed as under on the basis of actual case.

Case No.1 – Application not disposed off within a period of thirty days from the date of application submitted and notice issued for clarification after about two years.

The application furnished on 01-04-2022 for cancellation of the registration from 31-03-2022 because of close of the business. The notice in form Reg-03 was issued on 05-01-2024 seeking clarification such as Reconciliation between GSTR 3B Vs GSTR 1 and GSTR 3B ITC Vs GSTR 2A and Submit Payment proof i.e. bank statement and copies of Sale Purchase Invoices along with copy of Supplier Ledger and KYC documents.

Reply could not be furnished because the person was not aware of about the notice issued. The Application for cancellation of registration was rejected vide order dated 31-01-2024 i.e. after about two years because the reply was not furnished.

**The purpose of this Article is to highlight the lethargies of the GST Authority in processing the application for cancellation of registration furnished by the tax payer after close of the business and highlights the GST Law in this respect.**

Such lethargies are

1. The Application is not disposed off within 30 days.
2. Seeking clarification in form Reg-03, except about the particulars reported in the application, is without jurisdiction.
3. The GST Authority rejects the application for cancellation of registration means that the Authority says to the dead person (if application filed after death of the proprietor) to keep continue his business or the Authority says to the person who had closed his business, to keep continue his business.

**PROVISIONS UNDER THE GST LAW FOR THE REGISTERED PERSON SEEKS HIS GST REGISTRATION TO BE CANCELLED**

1. Under the following circumstances the registered person may furnish application for cancellation of registration (Section 29(1) CGST Act)
  - a. In case death of the person (by his legal heir);
  - b. the business has been discontinued (Close of the Business);
  - c. the person is no longer liable to be registered under GST;
  - d. transferred fully of the business;
  - e. amalgamated with other legal entity;
  - f. there is any change in the constitution of the business and
  - g. any other reason (to be specified in the application).
2. Application is to be furnished within a period of thirty days of the occurrence of the event warranting the cancellation. (Rule 20)
3. The application requires future address for correspondence, email id, phone number and the details of inputs held in stock or inputs contained in semi-finished or finished goods held in stock and of capital goods held in stock on the date from which the cancellation of registration is sought, liability thereon, the details of the payment, if any, made against such liability. (Rule 20)

**PROCEEDING PROVISIONS IN REGARD TO APPLICATION FURNISHED FOR CANCELLATION OF REGISTRATION**

4. The proper officer shall issue an order in FORM GST REG-19, within a period of thirty days from the date of application submitted under rule 2 to cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section (5) of section 29.
5. **There is no provision under the GST Law authorizing the GST Authority to issue the notice for any clarification. Sub rule 3 of rule 22 of the CGST Rules mandates that the GST Authority “shall” issue an order in FORM GST REG-19, within a period of thirty days from the date of application submitted under rule 20 if a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled. Therefore, issuing notice of clarification in form GST Reg-03 is out of jurisdiction.**

**CIRCULAR 69 DATED 26-10-2018 - PROCESSING OF APPLICATIONS FOR CANCELLATION OF REGISTRATION SUBMITTED IN FORM GST REG-16**

**Para 4 of the circular** stating mandatory fields to be filled in cancellation application i.e. GST REG-16. These fields are reproduced as under:

- a) Address for future correspondence with mobile number and email address;
- b) Reason for cancellation;
- c) Date from which cancellation is sought;

- d) Details of the value and the input tax/tax payable on the stock of inputs, inputs contained in semi-finished goods, inputs contained in finished goods, stock of capital goods/plant and machinery;
  - e) In case of transfer, merger of business, etc., particulars of registration of the entity in which the existing unit has been merged, amalgamated, or transferred (including the copy of the order of the High Court / transfer deed);
  - f) Details of the last return filed by the taxpayer along with the ARN of such return filed.
6. **Para 5 of the circular** is guiding that the application of cancellation of registration should be accepted within a period of 30 days from the date of filing the application if all particulars mentioned in sub-paras a) to d) of the para 4 are correct and complete in the application. The order for cancellation should be issued in FORM GST REG-19 with the effective date of cancellation being the same as the date from which the applicant has sought cancellation in FORM GST REG-16.
7. The para 5 further informs and guides that the cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation.
8. The para 6 of the circular says that if the particulars are incomplete in the application and it is the case of transfer, merger or amalgamation of business then the proper officer shall inform the applicant in writing about the nature of the discrepancy and give a time period of seven working days to the taxpayer, from the date of receipt of the said letter, to reply. If no reply is received within the specified period of seven working days or if reply to the query is found to be not satisfactory, the proper officer may reject the application on the system, after giving the applicant an opportunity to be heard, recording reasons for rejection in the dialog box that opens once the "Reject" button is chosen.

### **Conclusions**

On perusal of the provisions of the GST Law and guidelines as given in the above stated Circular it may conclude that

- 1. The GST Authority must issue the order of cancellation in form GST REG-19 within 30 days from the date of submission of the application for cancellation of registration. [*rule 22(3)*]
- 2. That the GST Authority has no jurisdiction to issue notice for any clarification other than in regard to particulars in the application or if the application for cancellation has been furnished due to the case of transfer, merger or amalgamation of business.
- 3. The assessment proceedings or pre-assessment enquiries cannot be merged with proceedings relating to the application for cancellation of registration.
- 4. In case of close of business there is no option with the GST Authority except to pass the order for cancellation of registration if particulars as required in the application have been reported in order.

(PARVEEN KUMAR MAHAJAN)  
Advocate



**@ADV.(CA) MAYANK AHUJA**

## **THE INCOME TAX BILL, 2025 – AN OVERVIEW**

### **Introduction:-**

During the Budget Speech on July 23, 2024, Hon'ble Finance Minister Smt. Nirmala Sitharaman announced a comprehensive review of Income Tax Act, 1961(ITA). This move aims to make the Act concise, clear and easier to read and understand. The aim is to reduce disputes and litigation, thereby providing taxpayers with Tax certainty. The **Income Tax Bill, 2025 after approval from Cabinet** was introduced in Lok Sabha (Parliament- Lower House) on **13th February 2025**. It seeks to replace the Income-Tax Act, 1961. The Bill retains most of the provisions of the 1961 Act. The Income Tax Bill, 2025 (ITB) marks a significant legislative overhaul in India's direct tax framework.

### **Current Position of Income Tax Bill**

It is sent to Select Committee which comprises of 31 members lead by Chairman Mr. Baijayant Panda (Member of Parliament) who is examining this Bill after consulting with various stakeholders. Most likely, they are going to submit their report in the upcoming Parliament monsoon session, 2025.

### **Applicability:-**

The Income Tax Bill 2025 will come into effect after it's passed by both the houses of the Parliament. It's likely to be applicable from **01st April, 2026**.

### **Content in Income Tax Bill, 2025**

The Bill is intended to streamline, simplify, and modernize tax administration in the country. With a total of 536 Clauses (after enactment it will become sections) spread across 23 chapters and 16 schedules, the Bill proposes to replace 64 years old Income Tax Act, 1961 having 911 sections and 11 schedules.

New Income Tax Bill **eliminates more than 300 provisions** of Existing Income Tax Act, 1961 that have become redundant or were omitted over the time.

Despite the significant reduction in the legislation's size, the essence of Income Tax Act has been retained.

More than 1,200 Provisos and 550+ Explanations of Existing Income Tax Act, 1961 are presented as sub-sections, clauses, or sub-clauses in the Existing Income Tax Bill. The entire New Income Tax Bill, 2025 does not contain a single Proviso or an Explanation.

As per tweet by Finance Ministry, the new tax system built on five Core Principles, which make it **S.I.M.P.L.E** for people to follow and to enforce. These five principles were explained as

- Streamlined Structure and Language
- Integrated & Concise



- Minimized Litigation
- Practical & Transparent
- Learn & adapt
- Efficient Tax Reforms

### **Key changes in various Topics & under various Heads of Income:-**

#### **(under new Income Tax Bill, 2025)**

- ✚ Clause- 2 of the Income Tax Bill, 2025 includes 112 sub- clauses that explain all important **definitions**, which were defined in the relevant provisions of the Existing Income Tax Act, 1961 at one place.
- ✚ The words “Previous Year” and “Assessment Year” are replaced with **“Tax Year”**. This means the 12-month period of the financial year commences on the 1st day of April.

#### **✚ Residential Status**

Section 6 of the Existing Income Tax Act, 1961 provides that the condition of stay in India for 60 days or more in the current year does not apply to a citizen of India who leaves India “for the purpose of employment outside India”.

The Income Tax Bill 2025 proposes to **replace this expression with “for employment outside India”**.

There are various decisions on the scope of the expression “for the purpose of employment outside India”.

It has been interpreted broadly to cover the cases even if the main or proximate reason for leaving India was to take up (or even look for) employment abroad. The term ‘employment’ includes self-employment, like a business or profession, being taken up by the individual abroad.

**[British Gas India (P.) Ltd., In re [2006] 155 Taxman 326 (AAR) and CIT v. O. Abdul Razak [2011] 198 Taxman 1 (Ker.)]**

“For employment outside India” may require a clearer, more concrete employment arrangement/contract. In other words, you might need to demonstrate that you actually have employment abroad rather than merely traveling with the intention or purpose of seeking employment or exploring job opportunities.

#### **✚ Income Deemed to Accrue or Arise in India**

There is a drafting error in Clause 9(6)(a)(iii), which deals with the taxation of royalty payable by non-residents.

*“(iii) a non-resident, if the royalty is payable in respect of any right, property or information used or services utilised for the purposes of—*

*(A) a business or profession carried on by the non-resident in India; or*

*(B) making or earning any income from any source outside in India, shall be deemed to accrue or arise in India;”*

In **Clause 9(6)(a)(ii)**, which deals with the taxation of royalty payable by residents in connection to a source of income outside India, **whereas the New Income Tax Bill**, removes “in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by the resident outside India”. It uses the term “payable for a business or profession carried on by the resident outside India” to exclude the royalty payable by a resident from the scope of the provision.

- Where all operations are not carried out in India, the Existing Income Tax Act, 1961 requires that the profits ‘reasonably attributable’ to operations carried out in India shall be deemed to accrue or arise in India from any business connection. The Income Tax Bill, 2025 proposes to remove “reasonably”, which may remove the subjectivity in computation of attributable profit. It seems that a rule on the line of Rule 10 may prescribe a presumptive or proportionate method to compute the income attributable to business connection and to take away the discretion of the AO to compute the attributable income.

#### **Double Tax Avoidance Agreements**

- Section 90 of Existing Income Tax Act, provides that any term used in DTAA shall have the meaning as assigned to it under that agreement. However, if such a term is not defined in the DTAA, it shall have the meaning as assigned to it under the Act and any explanation given by the government. Where such term is not defined in the Act, unless the context otherwise requires, it shall have the same meaning as given by the notification issued by the Central Government.

Whereas, **Clause 159(7)(c)** in New Income Tax Bill, provides that where a term is used in any agreement and not defined under the said agreement or this Act, or in any notification issued by the Central Government, unless the context otherwise requires, it shall have the same meaning as assigned to it in any Act of the Central Government related to taxes; and in any other case, in any other law of the Central Government. As per FAQ issued by CBDT, this amendment is intended to reduce litigation and provide certainty as to how any term is interpreted in a tax treaty situation reflecting India’s present treaty position aligned with international tax treaty practices.

#### **Salary**

- Exemptions for allowances and retirement benefits are consolidated into one single section under the salary head itself for easy understanding
- Government employees are allowed a deduction for entertainment allowance of up to 20% of salary or Rs. 5,000 (whichever is lower). This deduction has been proposed to be removed.
- Medical treatment for prescribed diseases provided to an employee or his family members in an approved hospital is not taxable as perquisite, provided a certificate from the hospital and payment receipt is attached with the return of income. New Income Tax Bill, 2025 proposes to remove this requirement.
- As per the existing law, if an employee uses a vehicle provided by his employer to commute between home and office, it is not considered a taxable perquisite. The New Income Tax Bill, 2025 proposes that any expenditure incurred by the employer for an

employee's commute shall not be treated as a taxable perquisite. Thus, even if the employee uses his own vehicle or a third-party vehicle, any reimbursement or expense covered by the employer will be tax-free.

### **House Property**

- If the owner may occupy house property for his business or profession, its annual value is not taxable. The Mumbai ITAT in the case of Tracstar Investment (P.) Ltd. v. DCWT [2005] 1 SOT 115 (Mumbai) held that the phrase "may occupy" covers cases where a property is kept ready for business use but not occupied all the time. The **New Income Tax Bill, 2025** replaces the term "may occupy" with "occupied", which could lead to the taxability of properties that are ready for business use but not actively occupied.
- For properties let out in normal course, actual rent received is considered annual value. If the property remains vacant for any period during the tax year, the New Income Tax Bill, 2025 proposes that there is no need to compare the actual rent with the expected rent.

### **Business Income**

Presumptive taxation schemes for residents are consolidated into one section with no significant change.

- Presumptive taxation schemes for non-residents are also consolidated into one section with certain changes.
- Non-residents engaged in the business of shipping or aircraft can declare income lower than the presumptive income if books are maintained and audited. In **A. Sanyasi Rao v. Government of Andhra Pradesh [1989] 43 Taxman 271 (AP) (affirmed by Supreme Court in [1996] 219 ITR 330)**, the Court held the presumptive tax provisions are constitutional and observed that it would be upon the assessee to prove in the assessment proceedings his real assessable income. If the option is not given to rebut the presumptive income, the provisions can be challenged on Constitutional grounds. This option is not given in the case of provisions corresponding to Section 44BBD.
- The New Income Tax Bill, 2025 proposes that the tax include a surcharge for deduction under Clause 37 of New Income Tax Bill, 2025/Section 43B of Existing Income Tax Act, 1961. Similar controversies have arisen regarding Section 40(a)(ii), which the FA 2022 settled by clarifying that income tax includes a surcharge.
- The New Income Tax Bill, 2025 clarifies that tax paid on any income, including foreign taxes eligible for credit, cannot be claimed as a business expense. Earlier, only taxes paid on profits or gains from business or profession were not allowed as business expenses.
- The New Income Tax Bill, 2025 proposes that the actual cost of an asset excludes GST if input tax credit is claimed
- Depreciation on intangible assets not fully used for business will be allowed only proportionately, as determined by the AO.
- Assessee engaged in specified businesses (such as infrastructure, cold chain facilities, hospitals, hotels, etc.) are allowed a 100% deduction under Section 35AD of the Income Tax Act, 1961 of capital expenditure incurred for such businesses. However, if such an asset is later

sold or transferred, the amount received is taxed as business income under Section 28. The 100% deduction for cap expenditure is retained in Clause 46 of the New Income Tax Bill, 2025.

Further, the taxability on the transfer of such asset is retained in Clause 27 of the New Income Tax Bill, 2025. However, such taxability will arise only if the deduction is claimed under Clause 46 of the New Income Tax Bill, 2025. It does not explicitly cover assets for which deduction was claimed under Section 35AD of Existing Income Tax Act, 1961.

- All export incentives are covered under the scope of business income.
- As per Section 44AB Income Tax Act, 1961 entities are exempt from tax audits if their total turnover is Rs. 10 crore or less and at least 95% of all receipts and payments are done through banking channels (i.e., non-cash transactions). The language of this provision is such that it takes into account even non-business receipts and payments for calculating the 95% threshold. In the New Income Tax Bill, 2025, the exemption criteria remain the same but provide that receipts and payments from business will be considered for the 95% threshold. This means receipts and payments that are not part of the core business operation (for example, dividends or interest incomes) will not be included in determining whether a tax audit is required.

#### **Capital Gains**

- The sunset date for the tax-neutral transfer of foreign funds to IFSC remains March 31, 2025, though the Finance Bill 2025 has already proposed to extend it to March 31, 2030.
- Before the amendment by Finance (No. 2) Act, 2024, the capital gains from the unlisted shares and debentures were taxable at 10% in the hands of non-residents without taking the benefit of the first proviso, which allowed the computation of capital gains in foreign currency. The FA 2024 introduced a standard tax rate of 12.5% on long-term capital gains, including the unlisted shares and debentures transferred by a non-resident, but did not allow the benefit of the first proviso. The New Income Tax bill, now proposes to allow non-residents to compute long-term capital gains from unlisted shares/debentures of Indian companies in foreign currency.
- Capital gain from long-term capital assets transferred on or after 23-07-2024 is taxable at a uniform rate of 12.5%. The New Tax Bill does not mention this cut-off date.
- No indexation benefit is allowed while computing long-term capital gains on capital assets transferred before 23-07-2024. The Income Tax Bill removes this cut-off date and instead provides that indexation may be allowed in prescribed cases. It is unclear why the government gives itself the power to allow indexation in certain cases.
- An Assessee becomes ineligible for Section 54F exemption if he purchases an additional house within 1 year from the date of transfer of the original asset. This time limit was 2 years to withdraw the exemption already claimed if he purchases another house within 2 years. The ITB proposes to keep a 2-year time limit for both provisions.

#### **AMT/MAT**

As per the ITA, MAT credit lapses on the conversion of a private company into an LLP. Due to the consolidation of MAT and AMT provisions and unclear wording, it seems AMT provisions do not apply to the successor LLP. This does not seem to be the intent.

## TDS/TCS

- All TDS provisions (except salary) are consolidated into one section.
- TDS provisions are consolidated into three categories—payments to residents, non-residents, and any person.
- TDS rates, thresholds, and payment nature are consolidated into a single table.
- TCS provisions are also consolidated into a single table for easy readability.
- TDS on payments credited to a suspense account now applies to all payments where TDS is applicable on payment or credit, whichever is earlier.
- The power to issue removal of difficulty guidelines by CBDT now covers the entire TDS/TCS chapter.
- A lower TDS/TCS certificate is available for all payments.
- The time limit for deferred tax payments or TDS on ESOPs is extended from 48 to 60 months.

## Returns

- The Income Tax Bill does not contain a provision corresponding to the seventh proviso of the Existing Income Tax Act, which specifies the circumstances under which the ITR must be filed, such as foreign travel, turnover, gross receipt exceeding the threshold limit, etc. However, the Board has been given the power to specify the conditions upon which the return filing will become mandatory.
- The Board has been given the powers to seek the details of credit card held by the assessee, expenditure exceeding the threshold, outgoings, particulars of principal place of business, etc.
- The ITB does not provide for filing the curate return for subsequent tax years if the updated return impacts carried-forward losses, unabsorbed depreciation, etc.

## Assessments

- Powers of valuation officers to estimate the value of assets is defined within the provision instead of referring to section 38A of the Wealth-tax Act, 1957.
- The valuation officer can amend the valuation report issued by him to correct any mistake in accordance with Clause 287 of ITB/Section 154 of ITA.
- Section 144C (6) of the ITA lists specific elements the DRP must consider when issuing directions. The ITB, instead of listing out specific items to consider, focuses on the structure and content of the directions. It requires that the directions be in writing and must state the points of determination, the decision on each point, and the reasons for those decisions.

### Block Assessment

- The ITB provides that the order for block assessment must be passed within twelve months from the end of the month in which the last authorization for a search or requisition was executed or made. The Finance Bill, 2025 proposes changing the time limit for completing the block assessment to twelve months from the end of the quarter in which the last authorization for search or requisition was executed. The ITB retains the original time limit of twelve months from the end of the month when the last authorization for a search or requisition was executed or made.

***Although New Income Tax Bill (ITB) 2025 is vast like ocean, but here I tried to summarize key important area for our readers.***

**ANALYSIS OF CAPITAL GAINS TAX AMENDMENTS UNDER THE INCOME TAX ACT MADE BY THE  
FINANCE ACT 2024**



*BY Dr. RAKESH KUMAR, ADVOCATE*

Executive Summary: The Finance Act 2024, which received presidential assent on 16 August 2024, has introduced notable changes to the taxation of capital gains as governed by the Income Tax Act, 1961. These amendments encompass a rationalization of the holding periods used to classify capital assets, revisions in the applicable tax rates for various categories of assets and assessee, removal of the indexation benefit for the majority of long-term capital assets, and the introduction of specific provisions addressing immovable property acquired prior to 23 July 2024. The primary effective date for these modifications is 23 July 2024, although certain provisions have distinct commencement dates.

1. Capital Gains Amendments in the Finance Act 2024: Chapter III of the Finance (No. 2) Act, 2024, introduces several sections that amend the Income Tax Act, 1961, with direct and significant implications for the taxation of capital gains. These amendments are largely driven by an objective to rationalize and simplify the existing capital gains tax regime. The key sections of the Income Tax Act that have been amended and bear direct relevance to capital gains include, but are not limited to:
  - 1.1. Section 2, which provides definitions for various terms crucial for interpreting income tax regulations, including long-term capital assets and short-term capital assets,
  - 1.2. Section 48, which outlines the methodology for calculating capital gains;
  - 1.3. Section 50AA, which provides for tax treatment of market linked debentures.
  - 1.4. Section 111A, which specifically addresses the tax treatment of short-term capital gains in certain defined scenarios;
  - 1.5. Section 112, which pertains to the taxation of long-term capital gains;
  - 1.6. Section 112A, which specifies the tax on long-term capital gains arising from the transfer of particular categories of assets;

- 1.7.** Sections 115AB, 115AC, 115ACA, 115AD, and 115E, which detail the taxation of capital gains for specific assessee categories such as offshore funds, non-residents, and non-resident Indians; and
- 1.8.** Sections 196B and 196C, which relate to the deduction of tax at source (TDS) on income derived from units of offshore funds and bonds or Global Depository Receipts (GDRs).
- 2. Detailed Analysis of Amendments to Capital Gains Provisions:**
- 2.1. Changes in Holding Periods:** The Finance Act 2024 has introduced a simplified structure for the holding periods that determine whether a capital asset is classified as short-term or long-term.
- 2.1.1.** For listed securities, which include equity shares, equity-oriented mutual funds (whether listed or unlisted), and units of business trusts listed in India, the holding period required to qualify as a long-term capital asset is now uniformly set at 12 months.
- 2.1.2.** For all other categories of capital assets, encompassing unlisted securities (excluding unlisted shares), immovable property such as land and buildings, gold, and debt mutual funds (excluding specified mutual funds), the holding period to be considered a long-term capital asset is now 24 months. This represents a reduction from the previous requirement of 36 months for certain assets like gold and unlisted securities (other than shares).
- This move towards just two holding period categories—12 months for listed securities and 24 months for all others—aims to reduce the complexity of the tax regulations and provide greater clarity for assessees in determining the nature of their capital gains. The reduction in the holding period for assets like gold and certain unlisted securities might also serve as an incentive for investors to hold these assets for longer durations, as they can now qualify for the potentially more favourable long-term capital gains tax rates within a shorter timeframe.
- 2.2. No Indexation w.e.f. 23 July 2024:** Benefit of Indexation of cost of acquisition and cost of improvement is not available where Long Term Capital Asset is transferred on or after 23 July 2024. No changes has been made in determination of cost of acquisition, where the asset has been acquired before 01 April 2001. Actual cost of acquisition may be substituted for the fair market value of such asset on 01 April 2001 at the option of the assessee.
- 2.3. Changes in Tax Rates:** The Finance Act 2024 has brought about several changes in the tax rates applicable to both short-term and long-term capital gains, with these revisions generally taking effect from 23 July 2024.

**2.3.1. Short-Term Capital Gains (STCG):** For short-term capital gains arising from the transfer of listed equity shares, units of equity-oriented mutual funds, and units of business trusts, where the transaction is subject to Securities Transaction Tax (STT), the tax rate has been increased from 15% to 20%. The tax rate applicable to other forms of short-term capital gains will continue to be as per the normal income tax slab rates relevant to the individual assesseees.

**2.3.2. Long-Term Capital Gains (LTCG):**

**2.3.2.1.** In the case of long-term capital gains derived from listed equity shares, units of equity-oriented mutual funds, and units of business trusts (again, where STT has been paid), the tax rate applicable to gains has been increased from 10% to 12.5%.

**2.3.2.2.** The exemption limit for long-term capital gains arising from the transfer of listed equity shares, units of equity-oriented mutual funds, and units of business trusts (as covered under Section 112A of the Income Tax Act) has been increased from INR 1 lakh to INR 1.25 lakh per financial year. This enhanced exemption threshold will be applicable for the financial year 2024-25 and all subsequent financial years.

**2.3.2.3.** For all other categories of long-term capital assets, which include immovable property, gold, and unlisted securities, the tax rate has been reduced from 20% (*with the benefit of indexation*) to 12.5% (*without the indexation benefit*).

**2.3.2.4.** Regarding long-term capital gains arising from the transfer of unlisted securities or shares by a non-resident assesseees, the tax rate has been increased from 10% to 12.5% for sales occurring on or after 23 July 2024.

**2.3.2.5.** Similar increases from 10% to 12.5% in the tax rate for LTCG have also been applied to income derived from units of offshore funds under Section 115AB, income from Global Depository Receipts (GDRs) or bonds of Indian companies purchased in foreign currency under Section 115AC, income of a non-resident from transactions in securities under Section 115ACA, and income on investment income and long-term capital gains of non-resident Indians under Section 115E, for transfers taking place on or after 23 July 2024.

**2.4. Changes in Definitions:** The Finance Act 2024 has brought about notable changes in definition of specified mutual funds and tax treatment of unlisted bonds and debentures;

**2.4.1.** A notable change involves the expanded definition of "specified mutual fund," which takes effect from 01 April 2025. According to this revised definition, a mutual fund will



be classified as a specified mutual fund if it invests more than 65% of its total proceeds in debt and money market instruments, or in units of another fund that itself invests more than 65% in such instruments. This alteration in definition is significant as it will likely lead to a different tax treatment for these categories of mutual funds starting from the financial year 2025-26 onwards. Funds which are adversely impacted by this change includes Exchange Traded Funds (ETFs), Gold Mutual Funds and Gold ETFs. There remains an ambiguity in the tax treatment of Funds of Funds (FOF), as whether the same shall be considered as specified mutual Funds.

2.4.2. Another change stipulates that income arising from the transfer, redemption, or maturity of unlisted debentures or unlisted bonds on or after 23 July 2024, will be treated as short-term capital gains, irrespective of the period for which these instruments were held.

2.4.3. Furthermore, effective from 01 October 2024, the proceeds received from the buyback of shares by a domestic company will be considered as deemed dividend in the hands of the shareholders and will be taxed according to the respective income tax slab rates applicable to those shareholders.

2.4.4. For non-resident assesseees who sell unlisted securities or shares of a company (excluding companies in which the public are substantially interested), the calculation of long-term capital gains will be done without taking into account the first and second provisos to section 48 of the Income Tax Act. This effectively means that the benefits of indexation and adjustments for foreign exchange fluctuations will not be available in such computations.

**2.5. No Changes in Exemptions:** There has been no changes in the existing benefits that are available under various sections of the Income Tax Act, such as Sections 54, 54F, and 54EC. These provisions allow assesseees to claim an exemption from capital gains tax if the gains realized are reinvested in specified assets within a designated period. The marginal increase in the exemption limit for long-term capital gains on specified listed securities offers a slight moderation to the increase in the tax rate for these particular assets.

The changes in tax rates suggest a deliberate effort to move towards a more standardized rate of 12.5% for the majority of long-term capital gains. However, this is accompanied by the removal of the indexation benefit for many asset classes. The increase in the long-term capital gains tax rate for non-residents on unlisted securities aims to align their tax obligations more closely with those of resident assesseees.

### 3. Changes in Capital Gains Tax Rates (Effective 23 July 2024) in Tabulated Form

Asset Category	Assessee's Type	Holding Period	Previous Rate	New Rate
Listed Equity Shares, Equity-Oriented MF, Units of Business Trust (STT paid)	All assessee's	Short-Term	15%	20%
Listed Equity Shares, Equity-Oriented MF, Units of Business Trust (STT paid)	All assessee's	Long-Term	10% (over INR 1 lakh)	12.5% (over INR 1.25 lakh)
Other Long-Term Capital Assets (Property, Gold, Unlisted Securities)	Resident Individuals/HUFs	Long-Term	20% (with indexation)	12.5% (no indexation)
Other Long-Term Capital Assets (Property, Gold, Unlisted Securities)	Other Residents/Entities	Long-Term	20% (with indexation)	12.5% (no indexation)
Unlisted Securities/Shares	Non-Resident	Long-Term	10%	12.5%
Units of Offshore Funds (Sec 115AB)	Non-Resident	Long-Term	10%	12.5%
GDRs/Bonds of Indian Cos (Foreign Currency) (Sec 115AC)	Non-Resident	Long-Term	10%	12.5%
Income from Securities Transactions (Non-Resident) (Sec 115ACA)	Non-Resident	Long-Term	10%	12.5%
Investment Income & LTCG (Non-Resident Indians) (Sec 115E)	Non-Resident Indian	Long-Term	10%	12.5%

#### 4. Grandfathering of Capital Gain for Individuals and HUFs

Grandfathering provisions ensure that gains accrued before a specific date remain unaffected by new tax laws. The Finance Act, 2024, introduced new grandfathering rules for capital gains taxation, effective 23 July 2024. These changes primarily impact real estate transactions, equity investments, and other long-term capital assets. The Finance (No. 2) Act, 2024 brought changes, which specifically addresses the grandfathering of the indexation benefit for long-term capital gains arising from the transfer of property. This amendment introduces a proviso that offers a choice to resident individuals and Hindu Undivided Families (HUFs) regarding the method of calculating tax on long-term capital gains from the sale of property (land, building, or both) acquired before July 23, 2024.

Assessee falling under this category are now given the option to calculate their capital gains tax liability based on whichever of the following results in a lower tax amount:

- Option 1: 20% Tax with Indexation: Taxpayers can choose to compute their long-term capital gains by adjusting the original cost of acquisition for inflation using the Cost Inflation Index (CII) and then applying a tax rate of 20% to the resulting gains. This method was prevalent under the previous tax regime.
- Option 2: 12.5% Tax without Indexation: Alternatively, taxpayers can opt for the new tax regime, which levies a lower tax rate of 12.5% on the long-term capital gains without allowing any benefit of indexation on the cost of acquisition.

The amendment explicitly allows the taxpayer to choose the option that results in a lower tax liability, thus safeguarding the interests of those who invested in property before the change in tax regime.

**Illustration:**

Assume a resident individual purchased a property in June 2010 for Rs. 50 lakh. The Cost Inflation Index (CII) for FY 2010-11 was 167, and for FY 2024-25 (assuming sale in August 2024) is 363. The property is sold in August 2024 for Rs. 1.5 crore.

- Option 1 (20% with Indexation):
  - Indexed Cost of Acquisition = (Cost of Acquisition / CII of Purchase Year) \* CII of Sale Year
  - Indexed Cost of Acquisition =  $(50,00,000 / 167) * 363 = \text{Rs. } 1,08,68,263.47$
  - Long-Term Capital Gain = Sale Price - Indexed Cost of Acquisition
  - Long-Term Capital Gain =  $1,50,00,000 - 1,08,68,263.47 = \text{Rs. } 41,31,736.53$
  - Tax Liability = 20% of Rs. 41,31,736.53 = Rs. 8,26,347.31
- Option 2 (12.5% without Indexation):
  - Long-Term Capital Gain = Sale Price - Cost of Acquisition
  - Long-Term Capital Gain =  $1,50,00,000 - 50,00,000 = \text{Rs. } 1,00,00,000$
  - Tax Liability = 12.5% of Rs. 1,00,00,000 = Rs. 12,50,000

In this scenario, the taxpayer would likely choose Option 1 (20% with indexation) as it results in a lower tax liability (Rs. 8,26,347.31) compared to Option 2 (Rs. 12,50,000). This example illustrates how the grandfathering rule provides a beneficial choice for property owners who acquired their property before July 23, 2024.

5. Effective Date of the Amendments: The majority of the amendments to the capital gains tax provisions under the Income Tax Act resulting from the Finance Act 2024 became effective from 23 July 2024. This date applies to the revised holding periods, the changes in tax rates

(unless specified otherwise), and the rule concerning the treatment of unlisted debentures and bonds as short-term capital gains. The new rule regarding the taxation of share buybacks as deemed dividend has come into effect from 01 October 2024. Furthermore, the expanded definition of "specified mutual fund" is scheduled to take effect from 01 April 2025.

5. Conclusion: The Finance Act 2024 has ushered in significant changes to the capital gains tax regime in India, with the stated goals of simplification and rationalization. The intention is to create a more transparent and easier-to-understand system, reducing complexities in tax computation and compliance for the assessee. These changes encompass revised holding periods for capital assets, modifications to the tax rates applicable to various asset classes and assessee categories, and the removal of the indexation benefit for the majority of long-term capital assets. The impact of these amendments will be felt differently across various assessee segments and asset types. While certain measures, such as the grandfathering of the indexation benefit for specific property transactions, offer relief, others, like the increase in tax rates for equity gains and the removal of indexation for most assets, could potentially lead to a higher tax burden in certain circumstances. The move towards a more uniform tax rate for long-term capital gains and the simplification of holding periods are anticipated to enhance the clarity of the tax system. A thorough understanding of these amendments and their respective effective dates is of paramount importance for assesseees to ensure effective financial planning and adherence to the updated tax regulations. The Finance Act 2024 marks a substantial shift in the taxation of capital gains in India.

Thank you,  
Jai Hind,

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The concept for this conference was envisioned by **Shri Sushil Verma** and received approval from **Sh. Praveen Khandewal**, Member of Parliament and General Secretary of CAIT, who graced the event as the chief guest.

We extend our heartfelt thanks to our esteemed **chief guest**, as well as to the **Guest of Honour, Sh. Sudhir N Cheke Ji**, Additional Commissioner, Inv. Branch Pune, and **Sh. Sanjeev Ahuja, IAS**.



WITH SINCERE GRATITUDE, CAIT AND DGST GROUP





@CA RENU SHARMA

**Notifications issued by CBIC from 16.02.2025 to 30.04.2025**

Summarised by CA Renu Sharma

**Central Tax**

Date	Notification no	Matter
13.03.2025	10/2025-Central Tax	Seeks to amend notification No. 02/2017-Central Tax.
27.03.2025	11/2025-Central Tax	Seeks to notify Central Goods and Services Tax (Second Amendment) Rules 2025

**Central Tax (Rate)**

Date	Notification no	Matter
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No Notification issued

**Integrated Tax**

Date	Notification no	Matter
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No Notification issued

**Integrated Tax (Rate)**

Date	Notification no	Matter
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No Notification issued

**Corrigendum**

Date	Corrigendum	Matter
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No Corrigendum issued

**Circulars from 16.02.2025 to 30.04.2025**

Date	Circular no.	Matter
27.03.2025	248/05/2025-GST	Various issues related to availment of benefit of Section 128A of the CGST Act, 2017

**Instruction from 16.02.2025 to 30.04.2025**

Date	Instruction No.	Matter
17.04.2025	Instruction No. 03/2025-GST	Instructions for processing of applications for GST registration

**Advisories Issued by GSTN from 16.02.2025 to 30.04.2025–**

Summarised by CA Renu Sharma

Serial no.	Date	Advisory
1	18.02.2025	Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants of Jharkhand and Andaman and Nicobar Islands
2	01.03.2025	Gross and Net GST revenue collections for the month of Feb, 2025
3	03.03.2025	Advisory: Enhancements in Biometric Functionality - Allowing Directors to Opt for Biometric Authentication in Their Home State
4	16.03.2025	Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants of Uttar Pradesh
5	18.03.2025	Issue in filing applications (SPL 01/SPL 02) under waiver scheme
6	21.03.2025	Issue in filing applications (SPL 01/SPL 02) under waiver scheme
7	01.04.2025	Gross and Net GST revenue collections for the month of Mar, 2025



@SV

### MY TAKE

The High Court of Kerala at Ernakulam, in a recent landmark decision has declared the provisions laid down in Section 2(17)(e) and Section 7(1) (aa) of the CGST Act, 2017 as unconstitutional and void. These provisions attempted to bring transactions between associations and their members within the GST purview by treating them as two separate persons.

SO FAR NO NEWS FROM THE GOVERNMENT - NOT CLEAR WHETHER SLP FILED OR NOT.

The Supreme Court of India delivered an important judgement on March 21, 2025, relating to **revision of GST returns beyond the law prescribed time limit**, if such revision does not lead to loss of revenue for the government.

In a relief for homeowners or landowners, the Bombay High Court on April 8, 2025, ruled that **no Goods and Services Tax (GST) can be levied on re-development of a land by a homeowner/landowner through a builder in specific cases where the development rights are not sold.**

On July 29, 2024, the Hon'ble Bombay High Court had decided that taxpayers could amend or rectify their monthly statement of outward supplies.

The Delhi High Court is scheduled to hear a series of petitions jointly addressing the denial of Goods and Service Tax (GST) Input Tax Credit (ITC) to buyers on the grounds of default by the seller. The petitioners have challenged the validity of Section 16(2)(c) of the Central Goods and Services Tax Act, 2017.

[Section 65\(3\)](#) of CGST Act requires 15 days prior notice to the taxpayer before the GST authorities intend to conduct audit. After conduct of audit, the authorities are required to consider the version of the taxpayer in respect of discrepancies noticed. In the case before High Court, 15 days' time was not provided between uploading of notice ("revised notice" in this case) and finalization of findings of audit team. The Court said that without waiting for statutory notice period, findings have been finalized and though the taxpayer had filed reply within a few days, the audit proceedings were not sustainable. The Court accepted the contention of the department that show cause notice under [Section 73](#) could be issued independent of audit under Section 65 but in the case before it, audit report has been referred to in the SCN. Because of such reason, the SCN was also held as not sustainable and both the audit report and the SCN were set aside.