



A Monthly E-Newsletter

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# The Bottom Line

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## KEY METRICS

### Indices

BSE SENSEX	57,061	-2.57%	▼
NSE NIFTY50	17,103	-2.07%	▼
NASDAQ Composite	12,335	-13.26%	▼
NIKKEI 225	26,848	-3.50%	▼

### Currency

USD/INR	76.52	-0.82%	▼
EURO/INR	80.69	3.92%	▲
GBP/INR	96.19	3.51%	▲
JPY/INR	0.59	5.50%	▲

Note: The month-on-month movement as on April 30, 2022 is represented in percentages  
Source: Yahoo Finance, Investing.com



# DIRECT TAX

## Notifications/Circulars

### **CBDT notifies e-Dispute Resolution Scheme, 2022 along with rules relating to DRC**

CBDT notified the e-Dispute Resolution Scheme, 2022, to settle tax disputes involving small taxpayers. Taxpayers having total returned income up to INR 5 million and having income tax disputes not exceeding INR 1 million, will be able to avail the scheme. Entire procedure will take place electronically. Further, rules have also been notified providing for constitution of DRC, manner of application for resolution of dispute before the DRC, power of DRC to reduce or waive penalty imposed or grant immunity from prosecution or both.

*Notification No. 26 and 27 dated April 05, 2022*

### **CBDT notifies additional conditions for filing return by persons otherwise not required to file**

The Finance Act, 2019 had introduced a requirement for furnishing return of income by persons who are otherwise not required to file the return. The requirement was triggered if during the previous year the person had aggregate deposits of INR 10 million or more or incurred specified amount of expenditure or fulfilled such other conditions as may be prescribed. The other conditions have now been prescribed as:

- total sales, turnover or gross receipts in the business exceeds INR 6 million; or
- total gross receipts in profession exceeds INR 1 million; or
- aggregate of TDS and TCS is INR 25,000 or more (INR 50,000 or more in case of individual aged 60 years or more); or

- aggregate of deposit in one or more savings bank account is INR 5 million or more.

*Notification No. 37 dated April 21, 2022*

### **CBDT notifies rules for taxation of income from retirement benefit account maintained in a notified country**

The Finance Act, 2021 had introduced a provision for addressing mismatch in taxation of income from notified overseas retirement fund. Now, CBDT has notified rule 21AAA giving an option to the specified persons to offer the said income at the time of withdrawal/receipt of the same in the notified country rather than at the time of accrual. Canada, UK and USA have been notified for this purpose.

*Notification No. 24 and 25 dated April 04, 2022*

## Judicial Rulings

### **Exchange loss on forex loan is an allowable expenditure**

The Hon'ble Apex Court allowed assessee's claim for treating exchange loss on forex loan repayment taken for business purpose as revenue expenditure which was erroneously capitalized at the time of filing the return. While placing reliance on the decisions rendered in the case of India Cement as well as Empire Jute, it also held that Section 43A shall not be applicable in the present case since assessee did not acquire any asset from outside India.

*Wipro Finance Ltd v. CIT (Supreme Court)*

### **CBDT notifies e-Dispute Resolution Scheme, 2022**

**CBDT notifies additional conditions for filing return by persons otherwise not required to file**

**Apex Court rules exchange loss on forex loan is an allowable expenditure**

### **Reassessment notice received on 01.04.2021 legally valid since digitally signed & issued on 31.03.2021**

The Hon'ble Court dismissed the petition challenging notice received under section 148 on April 1, 2021. It held that if a notice is digitally signed and entered by income tax authorities in the computer resource outside their control on or before March 31, 2021, then it shall be considered as appropriately served. It observed that the provisions of section 148 and 149 (prior to their amendment) mention the timeline for issuance of notice and not its receipt.

*Malavika Enterprises v. CIT (Madras High Court)*





# INDIRECT TAX

## Circulars / Notifications

### Judicial Rulings

#### Revenue warned for passing vague order of cancellation of registration

The taxpayer was issued a SCN for cancellation of registration. The taxpayer approached the Court and it was held that the SCN was bereft of any material particulars or information and it was difficult for the taxpayer to respond to the same. The Court expected the officer to issue a fresh SCN containing all particulars and information so that it could have been appropriately responded to by the taxpayer. However, the officer proceeded to cancel the registration without issue of any fresh SCN. The Court came down heavily on this order and said "henceforth if this court comes across any such vague order or SCN duly signed by him, then that will be his last day in the office".

*M/s Vahanvati Steels (Gujarat High Court)*

#### ITC on promotional rewards is ineligible

The gifts or rewards given without consideration even though they were given for sales promotion do not qualify as inputs for the purpose of credit. Further, the rewards are also in the nature of personal consumption. Hence ITC in relation to such goods or services shall not be eligible.

*M/s GRB Dairy Foods Pvt Ltd (AAAR Tamil Nadu)*

#### Intermediary services

The activity carried on is identification of vendors who can

manufacture the tools as per design provided by overseas OEM. Further, the activity includes explaining and working with the said vendors for manufacture of tools. Consequently, the activities shall be considered as intermediary services.

*M/s Precision Camshafts Ltd (AAR Maharashtra)*

#### Detention and seizure of goods

The petitioner could not furnish the original tax invoices at the stage of interception of goods and at the physical verification. Later at the stage of show cause notice, all such invoices were submitted to the department for verification. Thereafter, it was for the department to conduct proper enquiry to prove that the tax invoices submitted by the petitioner were bogus. However, without initiating such enquiry, the department proceeded with the issuance of seizure Order. Accordingly, the impugned Order has been set aside.

*M/s A.S. Enterprise (Allahabad High Court)*

#### Optional transport facility to employees is taxable

Where the transport facility was provided by employer on optional basis, it would be beyond the realm of contractual obligation of employment agreement. Consequently, it shall be liable to GST beyond the value of INR 50,000, which is the threshold value for gifts to employees.

*M/s Beumer India Pvt Ltd (AAAR Haryana)*

Hon'ble Court reprimands authority for passing vague order of cancellation of registration

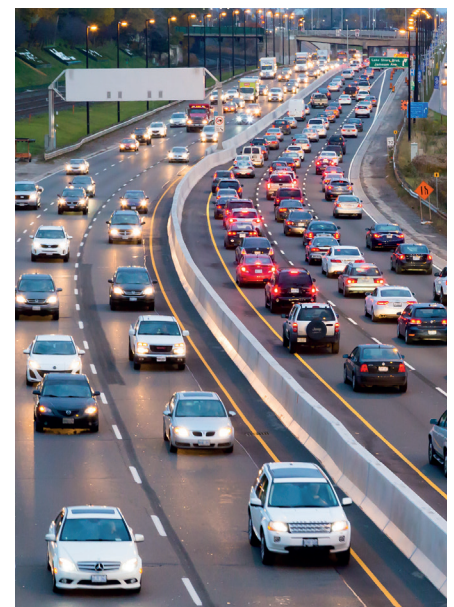
Optional transport facility to employees is taxable

ITC on promotional rewards is ineligible

#### Liquidated damages / penalties are taxable

Contract for supply of service of extraction of coal also has clause for recovery of penalty and liquidated damages for lapses on the part of supplier viz. delay in performance of contract. Such receipts are consideration towards tolerating an act or a situation arising out of a contractual obligation and shall be taxable under GST.

*M/s The Singareni Collieries Co. Ltd. (Telangana AAR)*



# CORPORATE & ALLIED LAWS

## Circulars / Notifications

### LEI for Borrowers

LEI stand extended to Primary (Urban) Co-operative Banks and NBFCs. Non-individual borrowers enjoying aggregate exposure of INR 50 million and above from banks and financial institutions shall be required to obtain LEI codes as per the timelines given below. Borrowers who fail to obtain LEI codes shall not be sanctioned any new exposure nor shall they be granted renewal/enhancement of any existing exposure. Departments/Agencies of Central and State Governments shall be exempted.

Total Exposure (fund & non-fund based)	LEI to be obtained on or before
Above INR 250 million	April 30, 2023
Above INR 100 million and upto 250 million	April 30, 2024
Above INR 50 million and up to INR 100 million	April 30, 2025

*Notification No. RBI/2022-23/34 DOR.CRE REC. 28/21.04. 048/2022-23 dated April 21, 2022*

### Regulatory restriction on loans and advances to specified persons by NBFCs

These shall be applicable to NBFC - Middle Layer (ML) and NBFC - Upper Layer (UL), effective October 01, 2022:

- Loans and advances to Directors: Unless sanctioned by the Board of Directors/

Committee of Directors, NBFCs shall not grant loans and advances aggregating INR 50 million and above to:

- their directors, including Chairman/Managing Director, or their relatives
- any firm in which any of their directors or their relatives is interested as a partner, manager, employee, or guarantor
- any company in which any of their directors, or their relatives is interested as a major shareholder, director, manager, employee, or guarantor.
- Loans and advances to Senior Officers: In the case of granting loans and advances to the senior officers:
  - These shall be reported to the Board
  - No sanction of any credit facility to a relative of the senior officer incharge, or part of a Committee, responsible for such sanction. Such sanction to be done by the next higher sanctioning authority under the delegation of powers.



### Obtaining LEI codes made mandatory

### Regulatory restrictions on loans and advances to specified person by NBFCs

- Guidelines applicable to NBFC – BL: NBFCs shall have a Board approved policy on grant of loans to directors, senior officers and relatives of directors and to entities where directors or their relatives have major shareholding. The Board approved policy shall include a threshold beyond which loans to abovementioned persons shall be reported to the Board

*Notification No. RBI/2022-23/29 DOR.CRE.REC. No.25/03.10.001/2022-23 dated April 19, 2022*



## CFO WATCH

### Clarification from SEBI on the omnibus approval for Related Party Transactions

### RBI's guidelines on the revised regulatory framework for NBFCs – Scale Based Regulation

#### SEBI issues clarification on omnibus approval on material Related Party Transactions

SEBI has provided clarification on the validity of omnibus shareholders approval for Related Party Transactions. The clarification states that omnibus approval obtained in an AGM shall remain valid up to the date of next AGM subject to a maximum period of 15 months. In case of approval taken in a general meeting other than AGM, the validity shall be upto 1 year.

#### SEBI mandates security cover against secured debt instrument

SEBI, through an amendment in SEBI (Issue and Listing of Non-Convertible Securities) (Amendment) Regulations, mandated the issuer and lead manager to ensure 100 per cent security cover or higher security cover over secured debt securities, sufficient to discharge the principal amount and the interest thereon at all times for the issued debt securities. It also requires furnishing of due diligence certificate by the debenture trustee to the Board and the stock exchanges, in the prescribed formats.

#### RBI issues clarification regarding revised regulatory framework for NBFCs – Scale Based Regulation

With reference to the previously issued revised regulatory framework for NBFCs – Scale Based Regulation, RBI has issued clarification on following matters:

- **Capital requirements for NBFCs**  
Maintenance of Common Equity Tier 1 capital of at least 9% of Risk Weighted Assets on an on-going basis by all NBFCs identified as NBFC-Upper Layer, except Credit Information Companies
- **Regulatory restrictions on loans and advances**  
Restriction on advancing of loans and advances to directors, senior officers of the NBFC and real estate sector, effective from October 01, 2022
- **Disclosures in financial statements- Notes to Accounts of NBFCs**  
Certain additional disclosures prescribed for NBFCs in line with the framework and comprehensive disclosures that help in understanding of the financial position and performance of the company have been encouraged. These guidelines are effective for annual financial statements for year ending March 31, 2023, and onwards.

## MERGERS & ACQUISITIONS

### Deal making in India thrives amid global uncertainty

While markets across the world remain volatile, deal-making in India displayed significant momentum. Bloomberg reports over 1,291 M&A deals and investments, including deals in the making, worth c. USD 105 billion during the first four months of 2022. Key announcements include the merger of HDFC and HDFC Bank valued at over USD 50 billion, PVR-Inox valued at USD 1 billion, Reliance Industries potential acquisition of medicine chain Walgreens Boots in Europe valued at USD 10 billion and Adani, JSW group, Ultratech Cements bidding for Ambuja Cements. Other key deals include Citibank's sale of its consumer assets and retail-banking business to Axis Bank to focus on its institutional business in India. Along with M&A, alternatives like a Joint Venture are also being actively explored in areas like solar energy, battery storage, green hydrogen, etc.

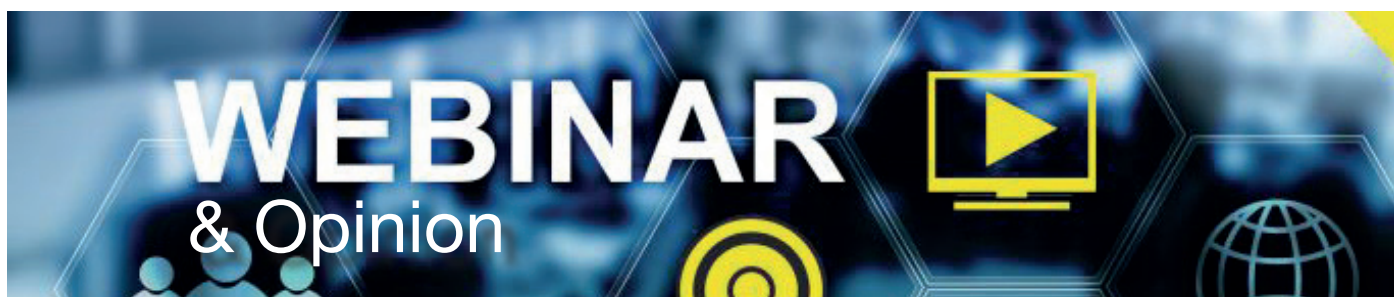
The flavour of the market is "Consolidation" as cash rich companies buy out competition to establish themselves as a bigger player. While cash-rich, high-growth companies backed with private equity are making a strong buy market, companies who have not been able to recover or keep pace with the changes due to the pandemic or other global uncertainties, make a good supply market. Besides, the start-up market, amid all challenges, has also seen significant activity in Fintech, EdTech, ConsumerTech and HealthTech space.

As the world finds its way out of the COVID pandemic and the Russia-Ukraine war, we expect the momentum in deal making to continue in 2022 in the form of acquisitions, PE investments, divestitures, and alternative M&A.





# IN THE NEWS



## Seminars

### ESG Impact – The Road Ahead – April 27, 2022

*Speakers:* Vinay KS, Anuj Trivedi, Subir Gupta, Nutan Zarapkar, Ranjeeb Sarma

We hosted a webinar on ESG Impact – The Road Ahead, where our expert group of panelists shared their experiences and discussed how ESG will play a pivotal role and impact us in terms of our business strategy. The topics of discussion were around ESG framework, valuation, reporting, financing, and legal aspects. The webinar was moderated by Vinay, Partner - Assurance, ASA and the panel consisted of Anuj Trivedi, Partner - Link Legal, Subir Gupta, Advisor - ESG, ASA, Nutan Zarapkar, Director - RTI and Ranjeeb Sarma, Head of Compliance, CSR and Plan A for India and Sri Lanka region - Marks and Spencer.

### Key Changes in CARO 2020 & Schedule III to the Companies Act – April 28, 2022

*Speakers:* D Ramprasad, Practice Head, Bengaluru and Vinay KS, Partner, Assurance

An event was hosted by us jointly with Hosur Industries Association on “Key Changes in CARO 2020 & Schedule III to the Companies Act -

Impact on the Financial Statements of FY 2021-22. The discussions covered new disclosures under the amendments to Schedule III to the Companies Act, new reporting requirements under CARO 2020, and the challenges and action required to meet the new compliances.

### Virtual CPE Meeting on Quality Control for Audit of Financial Statements and Materiality in Planning & Performance of Audit – April 11, 2022

*Speaker:* Parveen Kumar, National Head, Assurance

Parveen was invited to be a panelist at a virtual CPE meeting organized by ICAI on Quality Control for Audit of Financial Statements and Materiality in Planning & Performance of Audit.

### Seminar on Future Perspective – Industry & Practice Panel Discussion – April 16, 2022

*Speaker:* Ajay Sethi, Managing Partner

Ajay was invited to be a panelist by the Gurugram Branch of ICAI at a seminar on Future Perspective - Industry & Practice Panel Discussion. The topics covered in the discussion were around the challenges in practice and growth opportunities.

### Proposed Bills Regulating Chartered Accountants, Cost Accountants and Company Secretaries – April 20, 2022

*Speaker:* D Ramprasad, Practice Head, Bengaluru

Ramprasad was invited by the Bangalore Chamber of Industry and Commerce as a speaker for a virtual session hosted on Proposed Bills Regulating Chartered Accountants, Cost Accountants and Company Secretaries.

### Seminar on Internal Audit – April 23, 2022

*Speakers:* Parveen Kumar, National Head, Assurance and Gaurav Bhatia, Associate Director, Assurance

Parveen and Gaurav were invited as speakers by the Gurugram Branch of ICAI at a seminar on Internal Audit. The topics covered in the discussion were around red flags that the CFOs should not ignore and key commandments of internal controls and audit.



# GLOSSARY



## AAR

Authority for  
Advance Ruling

## AAAR

Appellate Authority  
for Advance  
Ruling

## AGM

Annual General  
Meeting

## CBDT

Central Board of  
Direct Taxes

## DRC

Dispute Resolution  
Committee

## FY

Financial Year

## ICAI

Institute of  
Chartered  
Accountants of  
India

## ITC

Input Tax Credit

## LEI

Legal Entity  
Identifier

## M&A

Mergers &  
Acquisitions

## ITC

Input Tax Credit

## LLP

Limited Liability  
Partnership

## M&A

Mergers and  
Acquisitions

## NBFC

Non-Banking  
Financial  
Company

## OEM

Original Equipment  
Manufacturer

## PE

Private Equity

## RBI

Reserve Bank  
of India

## SCN

Show Cause  
Notice

## SEBI

Securities and  
Exchange Board of  
India

## TCS

Tax Collected at  
Source

## TDS

Tax Deducted at  
Source

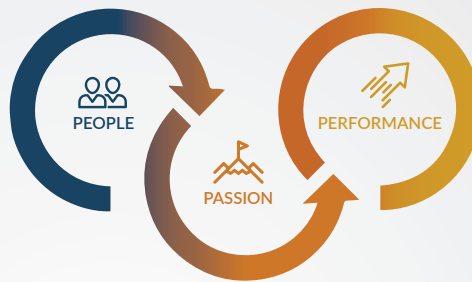
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Bhubaneswar, Chandigarh, Pune and  
Vishakhapatnam

### International Affiliates

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Belgium, Brazil, Bulgaria, Canada, China,  
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Thailand, Tunisia, Turkey, UAE, UK, USA,  
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